



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

**ANNUAL REPORT OF THE OMBUDSMAN ACTING AS
NATIONAL PREVENTIVE MECHANISM**

2020

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ABBREVIATIONS LIST

ASA – Agency for Social Assistance
CBS – Correctional Boarding School
CM – Council of Ministers
CPH – Closed-type Prison Hostel
CPT – Committee for the Prevention of Torture
CTPMUP - Centre for Temporary Placement of Minor and Underage Persons
DHI – District Health Inspection
ECtHR – European Court for Human Rights
EPDA – Execution of Penalties and Detention Act
FTACCYPUD – Family-type Accommodation Center for Children and Young People without Disabilities
GDEP – General Directorate Execution of Punishments
HAD - Home for Adults with Dementia
HAMD - Home for Adults with Mental Disorders
HC – Health Center
HMSCCh – Homes for Medical and Social Care for Children
MH – Ministry of Healthcare
MI – Ministry of Interior
MJ – Ministry of Justice
NHIC – National Health Insurance Casse
NPM – National Preventive Mechanism
OA – Ombudsman Act
OPCAT – Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OPH – Open-type Prison Hostel
PDD – Police District Department
RIEPDA – Rules on the Implementation of the Execution of Penalties and Detention Act
RRC – Regional Reception Centre
RSCA - Residential Social Care for Adults
RSCCh - Residential Social Care for Children
SAA – Social Assistance Act
SAD – Social Assistance Directorate
SAR– State Agency for Refugees
SCTAF - Specialised Centre for Temporary Accommodation of Foreigners
SHATD – Specialised Hospital for Active Treatment of Detenees
SIPMD - Social Institution for Persons with Mental Disorders
SPH – State Psychiatric Hospital
SVCBS - Secondary Vocational Correctional Boarding School

SUMMARY

The functions of the Ombudsman as the National Preventive Mechanism (NPM) are related to the implementation of the Optional Protocol to the UN Convention against Torture and the 2012 amendments to the Ombudsman Act. The annual NPM reports provide an assessment of the state of human rights in places for deprivation of liberty and are aimed both at the institutions in the Republic of Bulgaria and at the international organisations and non-governmental associations whose work is related to the protection of persons deprived of liberty. Over the eight plus years of its work, the NPM has established itself as a recognisable independent monitoring authority performing its functions in places where children and adults are accommodated by virtue of a government act. Proof of the important role of the Ombudsman as the NPM is the fact that the opinions and annual reports are used in the work of courts.

The 2020 report is based on inspections on site, monitoring, document checks, meetings and interviews both with persons accommodated at places for deprivation of liberty and with persons working at these institutions, as well as complaints and signals received.

The conditions at certain places remain traditionally poor while other areas of monitoring register progress and positive change. This progress is also the result of the independent monitoring, the recommendations of the Ombudsman and the work of the NPM as well as the cooperation between institutions to guarantee the respect for human rights and the attainment of the goals of international and national law as well as the practices in its application.

The past 2020 posed a substantial challenge to the efforts of the Ombudsman's team to exercise effectively and fully its powers as the National Preventive Mechanism. The global COVID-19 pandemic forced the Bulgarian government authorities to declare a **state of emergency** on 13 March 2020 in the entire country for one month; on 3 April, it was extended until 13 May 2020. An **emergency epidemic situation** was declared from 14 May till 14 June which was then extended repeatedly until the very end of 2020.

In 2020, despite the difficult epidemic situation and the state of emergency, the Ombudsman as the NPM carried out inspections in **49** sites. The main goal of the inspections was related to, first, assessing the anti-epidemic measures taken in closed institutions and monitoring the implementation of recommendations issued during previous visits.

The main activities of the Ombudsman acting as the NPM are focused on the places accommodating persons deprived of liberty, detainees or persons placed there as a result of an act or with the consent of a government authority and these persons may not leave these places of their own accord. The annual monitoring group of the NPM includes the places to serve the punishment of deprivation of liberty with the Ministry of Justice, detention centres at the Ministry of the Interior structures, special homes for temporary accommodation of foreigners with the Migration Directorate and registration and reception centres of the State Agency for Refugees at the Council of Ministers, residential social care for children and adults, state psychiatric hospitals. For some of the said groups of persons affected, the monitoring performed by the Ombudsman is the only form of independent control of the observance of their rights.

In 2020, a total of **3,848** persons received protection from the NPM. Throughout the period of state of emergency and emergency epidemic situation, the Ombudsman ensured immediate public access to the cell phones of the NPM experts to provide effective protection of the rights of all citizens residing in closed institutions.

The Ombudsman has always expressed concern for the respect for the rights of people at closed institutions but the protection of these rights proved to be a grave challenge in the COVID-19 pandemic

situation because this affects seriously vulnerable persons given the nature of the restrictions imposed on them and the difficulties to ensure adequate protection and anti-epidemic measures at accommodation places. It is important to note that international law envisages restrictions of almost all fundamental human rights if certain statutory conditions are in place and the interference in these fundamental rights is carried out in the discretion of the State. **Only the prohibition of torture is absolute in nature – it may not be derogated or restricted in any way.**

The Ombudsman took a clear stand in this regard and noted the necessary measures to guarantee the rights of persons placed in closed institutions in the conditions of a pandemic situation. **The official statement of the ombudsman in this regard with a request that leading international and European law protection standards be applied was sent as early as during the state of emergency to all competent institutions, including the Minister of Justice, the Minister of the Interior, the Minister of Labour and Social Policy, the Director of the State Agency for Refugees.** Later, a new element was included in the methodology NPM representatives apply in inspections which is related to a check of the implementation of the recommendations issued.

The state of emergency and the emergency epidemic situation resulted in significant changes in the organisation of the work of the Ombudsman acting as the NPM.

First, in view of the need to **provide support to the citizens and their rights in real time**, in the beginning of the state of emergency, the cell phones of the NPM experts were announced publicly to ensure a direct relation with persons deprived of liberty. As a result, even in the conditions of a state of emergency in the country, the institution of the public advocate continued to receive numerous complaints and signals from persons deprived of liberty and detainees which made it possible for the Ombudsman of the Republic of Bulgaria to continue to advocate effectively for their rights.

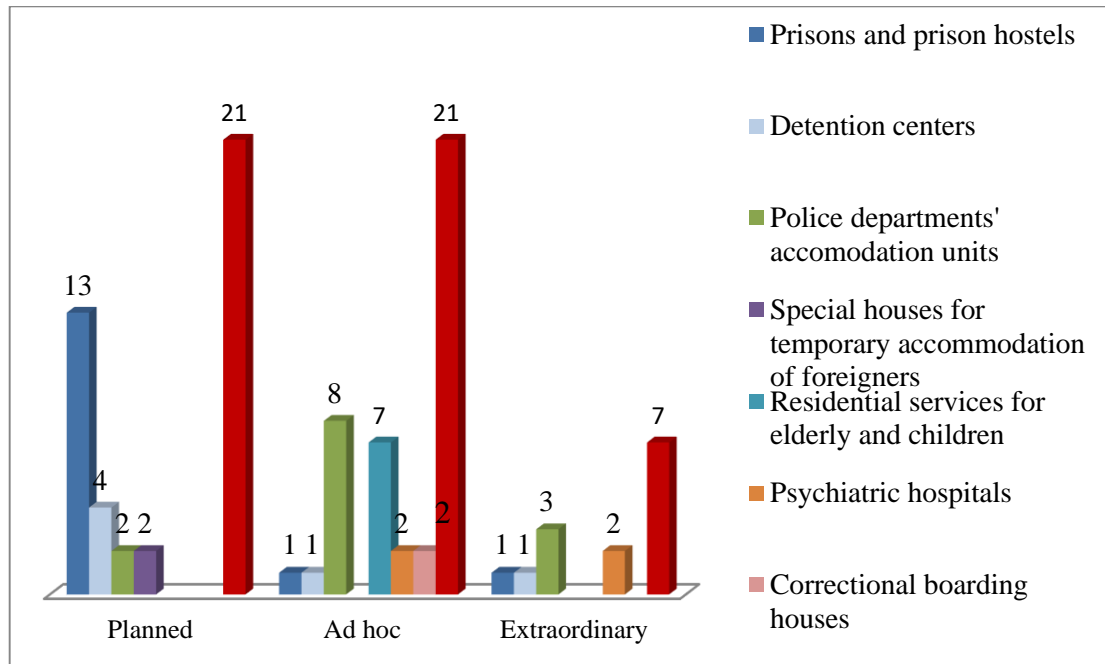
In 2020, the NPM experts were contacted by the relative of a person deprived of liberty with an onco-hematologic disease serving his punishment at Vratsa prison. His punishment was suspended so he could undergo a course of chemotherapy in Sofia. The days he was released for were not sufficient for him to complete the therapy course.

After the mediation interference of the Ombudsman, the person deprived of liberty was convoyed to Sofia to complete the course of chemotherapy.

Second, the state of emergency and the emergency epidemic situation led to a **change in the scope and annual schedule** of NPM inspections in order to include both the places for planned inspections in relation to the implementation of recommendations issued in previous years and a possibility for unplanned ad hoc inspections related to the application of the anti-epidemic measures in closed institutions.

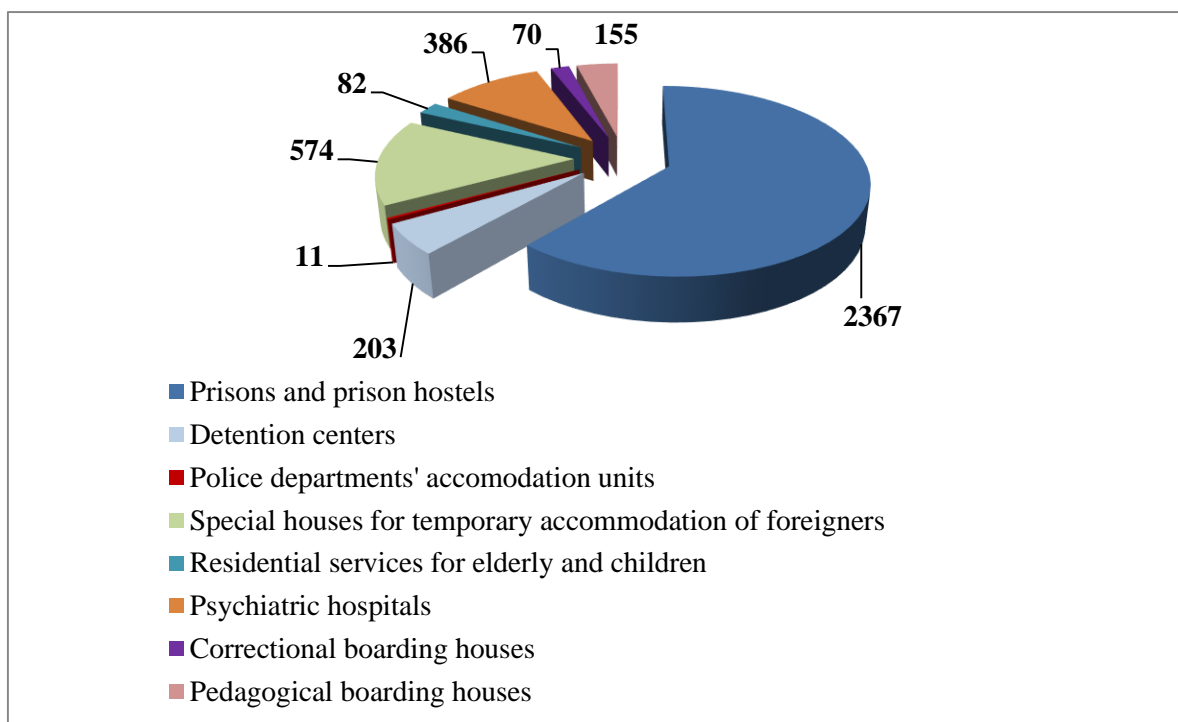
As a result, a total of 49 planned, unplanned and extraordinary inspections (*ex officio upon specific occasions*) were carried out in 2020 in different sites: prisons and prison hostels, detention centres, district and border police departments, psychiatric hospitals and others. This is an increase by 50% in comparison to the sites envisaged initially.

Graph 1 – Inspections carried out in 2020 by the NPM (numbers)



An emphasis in the inspections thus organised by the Ombudsman in the capacity of NPM in 2020 was the broadest scope possible of persons encompassed by the inspection. Thus, in 2020, a total of **3,848** persons were covered by the inspections performed.

Graph 2 – Number of people encompassed by the inspections carried out in 2020



As a result of the inspections carried out in 2020, a total of 39 recommendations were issued to specific institutions.

Table 1 – Recommendations sent following NPM inspections in 2020

No.	Name of institution inspected	Recommendation sent to	Number of recommendations sent
1	Home for Adults with Mental Disabilities – Village of Batoshevo	Sevlievo Municipality	2
2	Home for Adults with Dementia – Village of Gorsko Kosovo	Suhindol Municipality	2
3	For all state psychiatric hospitals	Ministry of Health Ministry of Labour and Social Policy	3
4	State Psychiatric Hospital – Byala	Ministry of Labour and Social Policy	1
5	Samoranovo Open-Type Prison Hostel	Ministry of Justice	1
6	Bobov Dol Prison	Ministry of Justice	3
7	Ztara Zagora Regional MoI Directorate	Ministry of the Interior	2
8	Stara Zagora Prison	Ministry of Justice	3
9	Burgas Regional MoI Directorate	Ministry of the Interior	1
10	Burgas Prison	Ministry of Justice	6
11	Plovdiv Prison	Ministry of Justice	5
12	Lyubimets Special Home for Temporary Accommodation of Foreigners	Migration Directorate, MoI	7
13	Harmanli Registration and Reception Centre	State Agency for Refugees, CoM	3

Source: Statistics of the Ombudsman of the Republic of Bulgaria

Third, **additions were made to the methodology for performance of inspections in closed institutions to include the updated international and European law protection standards** such as the Advice of the UN Subcommittee on Prevention of Torture to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic¹, the Principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic adopted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)² and the guidance of the World Health Organisation on fighting the pandemic.

As a result, the NPM inspections have found numerous deficiencies visible especially in the systems on whose reform the Ombudsman has insisted for a long time.

For example, the NPM has found that in some places for deprivation of liberty there is no possibility to quarantine newly admitted persons. PCR tests are not implemented as an alternative to quarantine. In this regard, the Ombudsman has recommended to the Directorate General Execution of Punishments to apply a flexible approach to implementing the anti-epidemic measures taking into account the objective capabilities of prisons and detention centres and to exercise systemic control.

The monitoring results are announced in the Ombudsman's annual reports in order **to serve as a starting point to changing the policies and improving the conditions in the said places.**

I. PROTECTION OF CHILDREN AND ADULTS IN RESIDENTIAL SOCIAL CARE

Throughout 2020, one of the main focuses of attention of the Ombudsman and the NPM was the rights of children and adults in residential care through the principles of care deinstitutionalisation in the conditions of a pandemic crisis.

Unfortunately, a great part of the recommendations related to the systemic problems of these vulnerable groups of persons have not been taken into account by the responsible administrative authorities and instead of being resolved, the problems are increasing and deepening.

The inspections carried out in 2020 found **an alarming tendency for accelerated transition of children from homes for medical and social care at the end of the year while the new social care has not been built yet.** Some children are accommodated at family-type placement centres for children with disabilities, others are reintegrated, placed in foster care or adopted, while children with grave disabilities are

Critical findings

Regardless of the fact that the last stage of the deinstitutionalisation process of the care for children related to the homes for medical and social care is underway, it is inadmissible to move children with grave disabilities to different institutions within short periods and in the conditions of a pandemic.

Main recommendations

Observe the principles of deinstitutionalisation when transitioning children and adults to alternative care, including advance preparation following an assessment of their individual needs, while the admitting institutions need to be ready and familiar with their individual needs.

¹ Approved on 25 March 2020.

² Issued on 20 March 2020.

Close down boarding institutions and introduce modern and effective measures to work with children perpetrators, including restorative justice and preventive work with them;

Create a protective social system, including a network of services (integrated services as well as correctional, psycho-social and protective measures and mechanisms of support) with respect to children who are in conflict with the law and their families.

accommodated at the four homes for medical and social care for children still working until the end of 2021.

In this regard, on 18.12.2020 the Ombudsman acting as the NPM contacted the Minister of Health and the Minister of Labour and Social Policy with a recommendation to suspend temporarily the transition of children from homes for medical and social care, especially of those with grave disabilities, until the construction of the new social care, preparation of the teams and the children, and overcoming the complex epidemic situation.

An NPM team carried out surprise inspections at the Homes for Medical and Social Care for Children in Pleven and Stara Zagora.

During the inspection, the team found that eleven children had been transitioned from the Pleven Home in the period from 23.12.2020 till 15.01.2021. According to the Director, the children were not ready for the transition. Ten of them, who have grave disabilities, were accommodated at family-type placement centres for children and adolescents with disabilities whose teams

were not ready to admit the children and were not familiar with their diagnoses. At the end of 2020, cases were registered of transitioning children in grave situations from the Sofia Home for Medical and Social Care for Children and placement at the Pleven Home for Medical and Social Care for Children without taking into account the impossibility for the parents (from Petrich, Kyustendil and Blagoevgrad) to maintain contacts with their children. There are cases where the documentation for the children is not appended with an assessment of the individual needs which hampers the staff at the new accommodation places to become familiar with the needs of the children and provide the best care in the interests of the children.

As regards the **adults accommodated at residential social care**, one of the main recommendations from the 2019 NPM Report was related to the Home for Adults with Dementia – Gorsko Kosovo Village, Suhindol Municipality. Due to the poor material and housing conditions and the insufficient care for the persons accommodated, the NPM recommended urgent measures to reduce the capacity of the institution ensuring enough personal space and sanitary units for the users. In performance of the NPM recommendations, an inspection was carried out by the Social Assistance Agency Inspectorate and placement at the home was suspended on 8 January 2020 until reaching the capacity of 30 people. The home will be closed down through building family-type placement centres and transitioning all users to them.

A plan is to be set as to how to transition every person placed at the home and to prepare for reintegration at the home environment or to use social or integrated health and social services for residential care. The plan for the transitioning of every person will be drafted by the Social Assistance Directorate with the participation of the person, representatives of the municipality who are responsible for the management of the home, social service suppliers, medical institutions, the person's family and kin.

The 2018-2021 Action Plan for the implementation of the National Strategy for Long-Term Care envisages that the Home for Adults with Mental Disorders – Govezhda Village, Georgi Damyanovo Municipality, will be closed down. The Ombudsman acting as the NPM send a

recommendation to the MLSP that all persons placed at the home should be prepared for the transition in advance and informed about possible vacancies at other services located close to their families.

II. PROTECTION OF THE RIGHTS OF CHILDREN IN CONFLICT WITH THE LAW

Critical findings

The reform of juvenile justice in Bulgaria continues to be in its nascent stage. There are yet no adequate correctional and educational services in line with the leading standards of protection of the rights and interests of the child.

Main recommendations:

Adopt a new strategy for a government policy in the area of juvenile justice for 2021-2030;

Reform the system of juvenile justice and assess the need for specialised judicial juvenile panels;

Repeal the Combating the Anti-Social Behaviour of Minor and Underage Persons Act in effect since 1958 and adopt a Criminal Justice Diversion and Imposition of Correctional Measures on Minor Persons Act;

Since 2012, the Ombudsman acting as the NPM has monitored the state and observance of the rights of children placed in social and pedagogical boarding houses and correctional boarding schools in the Republic of Bulgaria. In 2015, the institution released a special report after inspections of the existing six boarding houses in the country in which the Ombudsman insisted that the necessary steps should be taken to close the correctional boarding schools and social and pedagogical boarding houses due to the degrading living conditions.

Despite the emergency epidemic situation, in 2020 teams of the Ombudsman carried out two inspections at correctional boarding schools and found that a large part of the recommendations made in 2015 to the Ministry of Education had been implemented. Three boarding houses were closed down. The number of children placed in the remaining three was reduced from 218 to 100. Psychologists, model teachers and medical staff were hired. The facilities were improved. The relationships between the children and the teachers were good.

Still, the placement of children at correctional institutions continues to pose problems – the NPM has found a girl placed in a correctional boarding school even though there is a judgment for placement at a social and pedagogical boarding house. In this regard,

there is a finding of systemic disregard of inspections and control on the part of the State Agency for Child Protection – the latest inspection was carried out in 2016.

The correctional boarding schools and social and pedagogical boarding houses should have been closed down a long time ago due to the fact that they fail to meet the international standards of protection and support for children in conflict with the law. They were built in the 1960s, the buildings are old and away from regional centres; the children placed there do not have access to quality education or medical care. Their relatives are unable to visit them due to the remote location of the institutions and the lack of funds. The reintegration of the children later is difficult.

The Criminal Justice Diversion and Imposition of Correctional Measures on Minor Persons Act has not been adopted yet, even though it is the main driver of reforms. It is critical to open new alternative services for children in conflict with the law which are in line with their interests and do not violate their rights.

III. PROTECTION OF PERSONS WITH MENTAL ILLNESSES

In October 2020, the Ministry of Health published a Draft Strategy for the Mental Health of the Citizens of the Republic of Bulgaria 2020-2030 along with the respective Action Plan and a deadline to submit opinions – 1 November 2020. In line with the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Ombudsman of the Republic of Bulgaria acting as the NPM monitors annually state psychiatric hospitals (SPH), mental health centres (MHC), social institutions for persons with mental disorders. The main recommendation the Ombudsman as the NPM has made over the years to the Ministry of Health concerns the launch of urgent reforms in the sector of state psychiatric help. In this regard, the NPM submitted an opinion to the Ministry of Health.

In 2020, the NPM carried out three inspections at inpatient psychiatric institutions: Sevlievo SPH; Tserova Korja SPH, Byala SPH.

Improvement in the housing conditions was found in Sevlievo SPH and Tserova Korja SPH in comparison to the recommendations from previous inspections (2013 and 2014); in Byala SPH, however, the recommendations from the 2013 inspection were not implemented.

The NPM has found two main problems in the provision of psychiatric care at state psychiatric hospitals: the manner of funding and the lack of human resources. The budget is a key tool in the management of the activities at psychiatric hospitals to ensure respect for the patients' rights.

Over the past three years, the budget from the Maintenance Fund which covers the expenses for heating, water, food, medicines, bed linen, medical consumables, etc. has not only been left without an increase but has even been decreased in certain hospitals despite the consumer price inflation registered by the National Statistical Institute. The shortage of funding leads to the following negative findings:

1. A reduction failing to take inflation into account in the cost of food per day which, as of 30.09.2020, stands at BGN 2.30 at Sevlievo SPH (in comparison to BGN 2.55 in 2011); at Tserova Korja SPH it is BGN 2.29; at Byala SPH – BGN 2.03.

2. The NPM has also found a decrease in the cost of medicines per day which stands at BGN 1.51 at Sevlievo SPH as of October 2020 while it was BGN 4.99 in 2011, i.e. nine years later the cost of medicines per day has dropped almost four times.

3. Highly insufficient funds for bed linen and clothes; for the patients at Byala SPH the amount is BGN 0.02 per patient for the patient's entire stay.

Critical findings
The systemic shortage of funding for state psychiatric help continues which hampers the provision of quality medical care.

Main recommendations:

Streamline the funding mechanism for all inpatient institutions for persons with mental disorders; It should be tied to the quality of the medical services provided;

Attract more applicants to the specialties "Psychiatry" and "Child Psychiatry";

Prepare an assessment for relocation tied to the restructuring of all state psychiatric hospitals;

Launch a sufficient number of appropriate social services for children and adults with mental disorders;

Develop a medical standard "Child Psychiatry"

There has also been a downward trend over the past years for a decrease in the number of doctors specialising in psychiatry. The insufficient number of doctors, nurses and attendants creates conditions for untimely treatment of poor quality as well as a risk with respect to the monitoring and care for patients with aggression and autoaggression. An issue is also social rehabilitation and psychological care, the long hospital stays and repeated hospitalisations of persons with a grave social status. **There are patients at state psychiatric hospitals (for example, homeless people) who live there on a long-term basis due to the lack of residential social care for persons with mental disorders.** In this sense, hospitals perform the unlikely function of social services.

IV. PROTECTION OF ASYLUM SEEKERS

Critical findings

*A serious concern continues to be the systemic failure to resolve the matter with the inclusion of unaccompanied children in the orders of adult foreigners where they do not know each other and do not have any relations. **It is inadmissible to keep children at special homes for temporary accommodation of foreigners due to the lack of coordination between the competent state authorities.***

Main recommendations

Improve the interinstitutional cooperation between SHTAF and SAD with respect to unaccompanied children held at SHTAF and hold regular meetings on the matters of protection of unaccompanied children;

Improve the interinstitutional cooperation between MoI, Migration Directorate and SAA to terminate the accommodation of unaccompanied foreign children at SHTAF.

In 2020, the NPM performed an inspection at Lyubimets SHTAF in the conditions of an emergency epidemic situation in relation to the Covid-19 pandemic. The Medical Institute of the MoI Hospital has developed and systematically updates the anti-epidemic guidance for the special homes for temporary accommodation of foreigners in line with the provisions of the Ministry of Health and the specific situation at the homes. For the period March – December, Lyubimets SHTAF registered 17 foreigners and Sofia SHTAF registered 203 foreigners infected with Covid-19.

The home administration has taken action to renovate and improve the facilities but the foreigners still do not have sufficient personal space. The NPM has recommended that action be taken to ensure sufficient personal space for the foreigners.

During the interviews with foreigners placed there, the NPM did not receive signals of maltreatment or violence on the part of the home staff.

At the same time, there is still a serious issue with the inclusion of unaccompanied children in the orders of adult foreigners where they do not know each other and have no relations. In this case, the NPM has found that the authorities of the Social Assistance Directorate were informed by Lyubimets SHTAF about the cases of children but, due to formal obstacles and lack of resources (including a vehicle), the children were not moved timely to the SAD centres and they were held illegally for several days. What is even more paradoxical in the situation is that the adults with whom the children had been assigned were transitioned before the children.

The NPM team is raising a serious concern that this systemic problem has not been resolved yet, despite the numerous recommendations to the

Migration Directorate and the Social Assistance Agency over the years. **The NPM also recalls the case-law of the Bulgarian courts that unaccompanied minors may not be assigned with adults arbitrarily but there must be a complete examination of the facts and circumstances of importance in every case of a child seeking protection.**

The State Agency for Refugees with the Council of Ministers has implemented and observes the anti-epidemic measures laid down by the Ministry of Health in relation to the Covid-19 pandemic. For the period March – December 2020, a total of 25 persons placed at territorial units of the CoM State Agency for Refugees were diagnosed with Covid-19.

The issue with the language barrier is yet to be resolved due to the lack of interpreters which poses an additional obstacle in the work of medical specialists.

V. PROTECTION OF PERSONS DEPRIVED OF LIBERTY AT PLACES FOR THE SERVING OF PUNISHMENTS WITH THE MINISTRY OF JUSTICE

In 2020, the NPM carried out inspections at four prisons, nine prison hostels and five detention centres with the Ministry of Justice.

The inspections of the living conditions found a positive trend in the improvement of the living conditions and reduction in the number of inmates at 18 places for deprivation of liberty with the Ministry of Justice.

The majority of the recommendations in the 2019 NPM report were implemented: for example, the closing down of the Smolyan Detention Centre was cancelled; specific recommendations were implemented as regards the use of additional staff positions and additional funds to expand the hostel, renovate the computer lab and cinema, mount sunshades and benches in the spaces for outdoor stay at Belene Prison and purchase the necessary computer equipment.

The NPM notes that along with the major problems with respect to which the competent authorities have taken action, there is a group of issues with respect to which no clear commitment to implement the recommendations was demonstrated in 2020.

A systemic deficiency the NPM has found over the years is **the lack of budget funding for adequate activities in the tasks**

Critical findings

*The majority of the recommendations made in 2019 have been implemented: for example, the closing down of the Smolyan Detention Centre was cancelled. However, there is a whole **group of problems** with respect to which no clear commitment to implement the recommendations was demonstrated in 2020; **the most significant ones remain medical care and social work with the persons deprived of liberty.***

Main recommendation not implemented over the years:

Improve the system of funding for social and health workers by introducing a new human resource policy;

Make systemic efforts to resolve the problem with cockroaches and bed-bugs at places for deprivation of liberty;

Take action to amend the EPDCA as regards “Medical Care” taking into account the national health system;

Transform the medical centres into health offices within the meaning of the Health Act.

Transform the specialised hospitals for persons deprived of liberty into hospitals for long-term treatment.

Close down Debelt Open-Type Prison Hostel.

of social workers. The newly renovated detention centres do not have premises for social activities while the places with such premises (for example, Plovdiv Detention Centre) do not have social workers to perform them.

The **long-standing problem with cockroaches and bed-bugs at places for deprivation of liberty** continues and this has been found at all places inspected – even in places where major renovation works were completed. In this regard, recommendations have been issued to the DGEF to find alternative ways to deal with the issue.

The NPM has found persistent **prerequisites for violation of the secrecy of correspondence.**

According to the NPM, the most serious problem at prisons is medical care. It should be noted that the long-standing promises of the Ministry of Justice to reform the health system in the penitentiary system and amend the Execution of Punishments and Detention in Custody Act were not fulfilled in 2020 either. The NPM reiterates that such action is critical to identify the existing problems in the system and set out the actual possibilities to organise the health services for persons deprived of liberty. There has been no improvement in the health care for persons deprived of liberty. In 2020, 52 persons died in comparison to 36 in 2017. Medical specialists are continuing to leave the system. Over the past year, support was provided for the activities related to outpatient medical care and 20 medical specialists were hired under service contracts; general practitioners were selected ex officio in line with the National Framework Agreement.

It should be noted that, in the long term from 2001 to 2020, there has been a lasting downward trend in the number of persons suffering from tuberculosis. In 2020, a screening examination for hepatitis C was carried out at Sofia Prison with the assistance of a non-governmental organisation.

VI. PROTECTION OF PERSONS DETAINED AT ACCOMMODATION CENTRES WITH THE MINISTRY OF THE INTERIOR

In 2020, the NPM inspected thirteen premises for accommodation of detainees in the structures of the Ministry of the Interior, including structures of the Sofia Directorate of the Interior.

In view of the mass protests in the country, the NPM received complaints and signals from citizens and non-governmental organisations with information about serious violations of the rights of protesters detained by the police in Sofia on 10.07.2020 and 02.09.2020. There are indications that with respect to detainees at 2 District Department – Sofia Directorate of the Interior there was failure to respect a fundamental guarantee of protection – ensuring access to a lawyer, including in cases when lawyers engaged by relatives of the detainees appeared at the police and demanded to see their clients. It is noted that the conditions at the detention premises were unsatisfactory and they were overcrowded. There are also claims that the police authorities detained people who had not disturbed the public order. The media published a series of images of violence and unauthorised use of force against protesters and reporters. In addition, media publications show police officers carrying brass knuckles and wearing stickers on their uniforms in English reading “One hit. One kill. My decision. No remorse.” The use of brass knuckles by police officers is inadmissible as per the requirement of Article 85 of the Ministry

of the Interior Act which makes an exhaustive list of all auxiliary means and the cases in which they are **absolutely necessary**.

NPM teams carried out 5 inspections upon complaints at 1 District Department, 2 District Department and 3 District Department – Sofia Directorate of the Interior.

The Ombudsman sent a recommendation to the Minister of the Interior and the Director of the Sofia Directorate of the Interior demanding an impartial inspection and effective investigation of the cases in which there were serious concerns about the unauthorised use of force by police officers in the event of detention.

The Ombudsman expressly emphasises the need to examine if there is proportionality in the use of physical force and auxiliary means by the law-enforcement authorities as a fundamental principle set out in international acts, the Bulgarian law and the case-law of the European Court of Human Rights in Strasbourg. In line with this principle, any force used must correspond strictly to the attaining a legitimate aim.

By virtue of letter No. 5 13000-37281/03.08.2020, the Ombudsman was informed that an order of the Director of the Sofia Directorate of the Interior sets out an inspection under Article 205, para 2 of the MoI Act. After its completion, **the committee found exceeding of official powers on the part of police officers and violations of the citizens' fundamental rights in the use of physical force exceeding the limits set. The materials from the inspection were sent to the Sofia District Prosecutor's Office in view of competence.**

Critical findings

The state of the system of 24-hour detention at police departments remains unsatisfactory in 2020. The long-standing problems related to overcrowdedness, poor housing and living conditions, lack of sanitary units, no access to ventilation and natural light, access to legal aid are still top of mind.

Main recommendations:

Develop a specific policy to overcome the problem with overcrowdedness, lack of access to ventilation and natural light at MoI detention centres;

Improve the awareness of detainees about their rights;

Ensure access to legal aid for detainees;

Improve the provisions for the need for medical help when unresponsive persons are detained (temporarily lacking legal capacity) within the meaning of Article 21, para 1 of Instruction No. 1821z-78 of 2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior.



DETAILED REPORT

PROTECTION OF CHILDREN AND ADULTS IN RESIDENTIAL SOCIAL CARE

Development of the regulatory framework and government policy

HOMES FOR MEDICAL AND SOCIAL CHILD CARE

MAIN RECOMMENDATIONS

- *The principles of deinstitutionalisation when transitioning children and adults to alternative services need to be observed;*
 - *The children and adults who are to be transitioned in the process of deinstitutionalisation need to be prepared in advance for the transition;*
 - *The teams and medical staff at the places where children and adults will be moved need to become familiar with their individual needs in advance;*
 - *The children and people whose relatives maintain contact with them need to be accommodated as close as possible to the place where they live.*
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Since 2012, the Ombudsman as the NPM has monitored the process of deinstitutionalisation of the care for children. Despite the emergency epidemic situation instituted, the NPM continued in 2020 to carry out inspections in the homes for medical and social child care.

The Ombudsman as the NPM fully supports the process of deinstitutionalisation for children. The adoption of the National Strategy Vision for the Deinstitutionalisation of Children in the Republic of Bulgaria has created one of the most important documents for the protection of the rights of children in the past 10 years. This has strengthened Bulgaria's position as a rule-of-law state applying the highest international standards of protection of children's right. However, to ensure a successful completion of this process, the main priority of all stakeholder institutions needs to be focused on supporting biologic and extended families. Of special importance is the work to prevent the

abandonment of children in order to limit and gradually terminate their placement in institutions and to support the children's reintegration in their birth families.

The inspections carried out in 2020 found **an alarming tendency for accelerated transition of children** from homes for medical and social care at the end of the year **while the new social care had not been built yet**. Some children are accommodated at family-type placement centres for children with disabilities, others are accommodated at the remaining four homes for medical and social care. These concerns are also shared by representatives of different non-governmental organisations and human rights defenders.

In this regard, on 18.12.2020 the Ombudsman acting as the NPM contacted the Minister of Health and the Minister of Labour and Social Policy with a recommendation to suspend temporarily the transition of children from homes for medical and social care, especially of those with grave disabilities, until the construction of the new social care, preparation of the teams and the children, and overcoming the complex epidemic situation. Every movement of children with grave disabilities from one institution to another is a direct threat to their lives.

Despite the NPM recommendation, in the period from 23.12.2020 to 31.12.2020 the process of moving the children from the last 8 functioning homes for medical and social child care to the

remaining 4 such homes in Varna, Pleven, Stara Zagora and Kardzhali began. In this regard, on 18.01.2021 and 22.01.2021, an NPM team carried out surprise inspections at the Homes for Medical and Social Child Care in Pleven and Stara Zagora. The NPM reached out to the Minister of Labour and Social Policy with a recommendation that the children who would be transitioned from such homes need to be prepared in advance for the transition. Furthermore, the teams of the family-type placement centres for children and youth with disabilities need to become familiar with the children and their individual needs in advance while the medical staff at the centre need to become familiar with the children's psychosomatic condition. The children whose relatives maintain contacts with them need to be accommodated close to the place where they live. In response, the MLSP expressed the opinion that additional meetings would be organised and held between the child protection departments, the homes for medical and social care child and the services where the children would be accommodated to ensure their preparation for the move in compliance with the law and the anti-epidemic measures. If there is a need for specialised medical expertise, a national-level team of specialists will be set up – child psychiatrist, neurologist, traumatologist, paediatrician and others.

RESIDENTIAL SOCIAL CARE FOR ADULTS

The deinstitutionalisation process which began in 2010 is underway at a very slow pace. § 34 (1) of the Social Services Act provides that the homes for adults with mental disabilities, mental disorders, physical disabilities, sensory disabilities and dementia shall be closed down by 1 January 2035. The NPM is of the opinion that, in view of the quality of the care provided and the facilities, the people accommodated need to be moved as quickly as possible in line with clear criteria and approach during the transition to residential services in the community.

This approach needs to be embedded in the development of the next Action Plan for the implementation of the National Strategy for Long-Term Care which will guide the process of deinstitutionalisation of the care for the elderly and people with disabilities for the period until 2027. It will be used in the planning of all measures and activities, including those related to the preparation and transitioning of the people from the homes to be closed down and the building of the infrastructure of the new social and integrated health and social services. It is envisaged that close to 60% of the existing specialised institutions for people with disabilities will be closed down by 2027 or 41 out of a total of 70 homes which will remain after the end of the activities under the current Action Plan for the period 2018-2021.

Results of NPM inspections

HOMES FOR MEDICAL AND SOCIAL CHILD CARE

On 18.01.2021 and 22.01.2021, an NPM team carried out surprise inspections at the Homes for Medical and Social Child Care in Pleven and Stara Zagora.

At Pleven HMSCC, the NPM found that five children from Sofia HMSCC and five children from Blagoevgrad HMSCC were accommodated on 21.12 and 22.12.2020. The orders for their placement were issued on 14.12.2020 by the respective Social Assistance Directorates. According to the Pleven HMSCC Director, the home teams did not have the possibility, within such a short period, to prepare to meet the children and carry out introductory meetings with them. Another two children from Sofia HMSCC were transitioned on 15.01.2021.

The assessment of the individual needs of the child K.A.N., 5 years of age, notes that the parents maintain a constant contact with the child. The child is diagnosed with: epilepsy – grand mal seizures, child cerebral paralysis, microcephaly, anaemia, hypotrophy, deep mental disability. The

child G.G.K. 8 years of age, also maintain contacts with the parents. The child is diagnosed with: child cerebral paralysis – spastic quadriplegia – grave, symptomatic epilepsy, microcephaly, deep mental disability, gastrostomy, hypotrophy. The parents of one of these children even accompanied the child from Blagoevgrad to Pleven HMSCC. Taking into account that the parents of these children live in Petrich and Kyustendil, the movement of the children to Pleven will make it very hard to maintain family contacts which is in breach of the children's rights.

There are children who were placed at Sofia HMSCC in the second half of 2020 and moved to Pleven HMSCC several months later. An example is the child S.M.B. who underwent a surgery at the Pirogov Emergency Hospital in Sofia on 28.11.2020 after a brain contusion had been found and who was accommodated at Sofia HMSCC on 08.12.2020 by an order of the Social Assistance Directorate. On 21.12.2020, by a new order, the child was moved to Pleven HMSCC. The placement order notes that the child is accommodated at the home temporarily but no term is indicated. Thus, in the course of two weeks, the child was moved to two institutions and, according to the order of the Social Assistance Directorate, the child might yet be moved to a third one.

The assessment of the individual needs of two of the children moved from Sofia HMSCC to Pleven HMSCC notes that the children should be accommodated at family-type placement centres for children and youth with disabilities. Still, they were placed temporarily at HMSCC.

Even though the last stage of the process of child care deinstitutionalisation related to the homes for medical and social care is underway, it is inadmissible for children with grave disabilities to be moved to different institutions within very short terms.

During the inspection, the team found that eleven children were moved from Pleven HMSCC in the period from 23.12.2020 to 15.01.2021. According to the director, the children were not prepared for the move. Ten of them, who also have grave disabilities, were accommodated at family-type placement centres for children and youth with disabilities (FTPCCYD) whose teams were not ready to accept the children and were not familiar with their diagnoses.

The child Y.B.Y., 3 years of age, diagnosed with: Cornelia de Lange syndrome, grave pulmonary stenosis – condition after angio-valvulo-plasty, mild to moderate insufficiency, atrial septal defect – secundum, low weight at birth, deep mental disability, maintains contacts with the parents who are from Shumen. Still, the child was placed at Yambol FTPCCYD which hampers the contacts with the parents and is in breach of the child's rights.

There are also children moved from Pleven HMSCC aged below 3 who were placed at FTPCCYD for children and youth from 3 to 21 years of age.

The NPM team talked to the head of Gabrovo FTPCCYD because five children from Pleven HMSCC had been moved there. It was found that the documentation about the children had not been appended with the assessment of the individual needs which prevented the staff from becoming familiar with the children's needs.

At Stara Zagora HMSCC, the NPM found that five children from Buzovgrad HMSCC were placed on 29.12.2020. Their placement orders were issued on 14.12.2020 by the Kazanlak Social Assistance Directorate. According to the Stara Zagora HMSCC Director, he sent a team in advance to become familiar with the children's health situation and to hold introductory meetings with them. On 29.12.2020, during the move of the children from Buzovgrad HMSCC, Stara Zagora HMSCC sent five teams with specialised transport to take the children. The NPM met with them during the inspection and they were visibly calm.

During the inspection, the team found that two children diagnosed with trisomy 21 and child cerebral paralysis had been moved from Stara Zagora HMSCC to Gabrovo FTPCCYD on 21.01.2021.

According to the director, the children were not ready for the move. Gabrovo FTPCCYD teams had not visited the children in advance to become familiar with them and their health situation.

Furthermore, the Ombudsman institution received a signal from the managing director and psychologist of Ruse FTPCCYD about a child with disabilities aged 3 years and 8 months who had been temporarily moved from Dobrich to Ruse FTPCCYD. This caused a tremendous trauma for the child because his grandmother and grandfather who provide care for him live in Dobrich. Due to an urgent surgery the grandmother underwent, the child needed to be temporarily placed at a FTPCCYD until her recovery. Even though there are four family-type placement centres for children with disabilities in Dobrich and that the next closest city is Varna with six social services for children with disabilities for 72 children, the Dobrich Social Assistance Directorate placed the child 210 km away from his home town. This completely hampers the visits of the child's relatives.

The NPM is of the opinion that the criteria and approach envisaged for the move of children to alternative services need to be observed.

In this regard, the NPM reached out to the Minister of Labour and Social Policy with a recommendation that the children who would be moved from Varna HMSCC, Pleven HMSCC, Stara Zagora HMSCC and Kardzhali HMSCC be prepared in advance for the move. Furthermore, the FTPCCYD teams should get acquainted with the children and their individual needs in advance and the medical staff should be familiar with their psychosomatic situation. The child whose relatives maintain contacts with them should be placed close to the place where they live.

In 2021, the NPM will continue to monitor the process of deinstitutionalisation of the children placed at HMSCC and will inspect the Varna HMSCC and Kardzhali HMSCC as well as the FTPCCYD where children from HMSCC are placed.

RESIDENTIAL SOCIAL SERVICES FOR ADULTS

One of the main recommendations from the 2019 NPM Report was related to the Home for Adults with Dementia (HAD) – Village of Gorsko Kosovo, Suhindol Municipality. Due to the poor material and housing conditions and the insufficient care for the persons accommodated, the NPM recommended urgent measures to reduce the capacity of the institution ensuring enough personal space and sanitary units for the users. In performance of the NPM recommendations, an inspection was carried out by the Social Assistance Agency Inspectorate and placement at the home was suspended on 8 January 2020 until reaching the capacity of 30 people. The home will be closed down through building family-type placement centres and transitioning all users to them.

In October 2020, the NPM carried out another surprise inspection at Gorsko Kosovo HAD and the inspection team followed up on the fulfilment of the recommendations from previous reports. Due to the fact that at the time of visit to the home there was an ongoing examination of the staff and residents for COVID-19, the inspection was based on documents and via a conversation with the director. No new persons were placed at the home in 2020.

According to the inspection, the social service is currently used by 46 people. From the beginning of 2020 till October, 12 people died. For the sake of comparison, for 2019 till October there were 26 deaths. For the entire 2020, a total of 18 people died; the number for 2019 stands at 28, given a capacity of the home for 60 people. The decline in mortality could partly be attributed to the circumstance that, after the suspension of new placements, the staff members have a better opportunity to provide care for the smaller number of users. A plan is to be set as to how to transition every person placed at the home and to prepare for reintegration at the home environment or to use social or integrated health and social services for residential care. The plan for the transitioning of every person

will be drafted by the Social Assistance Directorate with the participation of the person, representatives of the municipality who are responsible for the management of the home, social service suppliers, medical institutions, the person's family and kin.

As regards the recommendation to take action for the reconstruction of the home in order to ensure sufficient personal space and sanitary units for the users so that it would meet the statutory criteria and standards, the NPM found that renovation works had been carried out of the sanitary units and dormitories and the boiler for the heating system had been replaced. Every room accommodates 4 people who are provided with a wardrobe and a night stand with a table for eating. The alarm system at the home is functional. The documents provided show that, in 2020, the planned costs from the targeted subsidy for capital expenditure were as follows: BGN 10,000 for the supply and assembly of window and door frames in the kitchen and the laundry; BGN 1,200 for an air conditioner and BGN 3,500 for an ironing machine. In 2021, the plans include changing the window and door frames on the first floor of the building, purchase of a specialised vehicle for people with difficulties to move and other tangible assets.

In relation to the NPM recommendation to ensure permanent access to the yard and to improve the entire space there, it was found that the people were taken outside in view of their abilities, with a person accompanying them. In this regard, the NPM again voices the opinion that in the event of appropriate weather conditions, access to the yard should have all users, regardless of their personal mobility. To this end, use could be made of the platform and railing for people with difficulties in moving built at the yard.

The users and staff of the social services were tested twice for COVID-19 and the results were negative. The activities during the day are carried out at a 30% of the capacity of the hall. Food is provided in the rooms with single-use plates and utensils in order to ensure distance. Family visits and access of external persons have been suspended; visits are allowed by exception in line with the anti-epidemic measures for terminally ill people upon the director's decision.

A rehabilitation therapist is hired under a service contract; the therapist carries out rehabilitation activities three times a week. Lists of therapeutic activities are prepared.

The home has ensured sufficient personal protection equipment and disinfection materials. The staff duties are organised in such a way as to ensure no shift overlap. There is an algorithm of disinfection of the premises 4 times a day. The temperature of the staff is taken every day and the work clothes are washed at a high temperature.

As regards the anti-epidemic measures taken, an inspection at the Home for Adults with Intellectual Disabilities (HAID) in the Village of Batoshevo, Sevlievo Municipality, the NPM found that in 2020 all residents were tested for COVID-19 and the results were negative. If necessary, the users receive advice from personal doctors and specialist doctors. The prophylactic examinations and immunizations of the people for the year are completed.

Since the beginning of the pandemic, according to the instructions of Gabrovo Regional Health Inspectorate, the admission of new residents to specialised institutions for social care has been suspended except for urgent placements. In the latter case, people are admitted based on a negative PCR test results not later than 48 hours before placement. In addition, a person would be placed in mandatory isolation in a separate room for 14 days, as per the recommendation of the state general health inspector. No persons have been accommodated as of the declaration of the state of emergency.

The home provides full-time medical care to the users. The newly admitted people have a set of medical documents and a certificate from their personal doctor that they have not been in contact with contagious people. Within 2 weeks of placement, a health care plan is prepared, consultations are

carried out with the personal doctor, a psychiatrist and, if necessary, a neurologist (in the case of people with epilepsy).

The HAID has also created and approved an Action Plan in the event of a COVID-19 case. Instructions for the appropriate way to wash your hands and wear a mask are mounted in visible places – in the canteen, bathrooms and toilets, the work therapy hall. Critical points for disinfection are determined and they are treated with an alcohol-based disinfectant every 2-3 hours. All staff members are provided with protective glasses, multiple and single-use masks and gloves. Disinfectant dispensers are placed at the entrance to all buildings and the gates. Paper towel dispensers are placed in all toilets as well as separate bins for single-use protection equipment. Clothes are washed at a high temperature, the disinfection of dormitories and halls is frequent, users are not allowed to leave the premises of the home.

Special instructions have been given to the staff in relation to the pandemic. The temperature of the staff and residents is taken every morning.

Approval has been given for:

1. Program to prevent the dissemination of COVID-19;
2. Procedure for visits of external people;
3. Algorithm for the disinfection activities at the HAID buildings;
4. Instructions on the appropriate hand hygiene;
5. Instructions on the appropriate wearing of a protective mask;
6. Instructions on safe work with cleaning and disinfection substances;
7. Coronavirus protection measures;
8. Procedure for measures and activities during emergencies.

All staff members are familiar with them as evidenced by their signatures.

There has not been an increase in deaths since the beginning of the state of emergency. Up to the time of the inspection, there were 3 deaths in 2020. The relatives of the residents are notified about the anti-epidemic measures and the terms for the application.

The team followed up on the implementation of recommendations from previous reports. The window and door frames in the building where the dormitories are located have been changed. People who have difficulties to move have access to the canteen and the main building.

In 2020, all dormitories and the canteen underwent minor renovation works. The laundry is being fitted with flooring. A new washing machine and tumble dryer were purchased. The open water source at the home is secured. Due to the water supply restrictions, there are regular supplies with cisterns and a water pump is installed.

On the first floor where the people who have difficulties in moving are accommodated, there is an alarm system which is linked to the health office and the room of the attendants; currently, it is also linked to the room of the social worker.

The 2020 budget also included renovation works – changing window frames at the work therapy hall and purchase of water-proof mattress protectors for the residents but they were postponed for 2021 due to the need to use HAID budget funds to buy personal protection equipment – glasses, helmets, single-use protection masks and overalls, disinfectants and other due to the COVID-19 pandemic. The kitchen premises need to be renovated urgently and the cooking appliances need to be changed.

The NPM recommended ensuring additional funds for renovation of the work therapy hall and the kitchen premises and for purchase of water-proof protectors for all mattresses. The NPM was notified by a letter of Sevlievo Municipality that the recommendation had been accepted.

The 2018-2021 Action Plan for the implementation of the National Strategy for Long-Term Care envisages that the Home for Adults with Mental Disorders – Village of Govezhda, Georgi Damyanovo Municipality, will be closed down. The Ombudsman acting as the NPM sent a recommendation to the MLSP that all persons at the home should be prepared for the transition in advance and informed about possible vacancies at other services located close to their families.

In 2021, the NPM will continue to monitor the process of implementation of the recommendations issued.

Anti-epidemic measures and standards

In relation to the state of emergency declared on 13 March 2020, the NPM has been paying special attention to the anti-epidemic measures at residential social services for children and for adults with dementia, intellectual disabilities and mental disorders. They are specially vulnerable due to the restrictions imposed on them and the difficulties to comply with the protection measures at closed institutions.

The NPM recommended to the MLSP that in taking measures against the pandemic, full account should be taken of the rights of the children and people placed in institutions and the rights of the staff working there. In this context, when taking measures against the pandemic, the state institutions need to take full account of the rights of the people placed in institutions and the rights of the staff working there.

The Minister of Labour and Social Policy responded that urgent measures have been taken to suspend the access of external people in order to prevent the dissemination of the infection at residential social services. In order not to cut connections between residents in institutions and their relatives, an organisation has been implemented for frequent telephone calls and online meetings. In addition, all institutions have been provided with the necessary protection equipment and disinfectant substances.

The NPM followed up on the implementation of the recommendations during on-site inspections.

PROTECTION OF CHILDREN IN CONFLICT WITH THE LAW

Development of the regulatory framework and government policy

MAIN RECOMMENDATIONS

- *Adopt a new strategy for a government policy in the area of juvenile justice for 2021-2030;*
 - *Reform the system of juvenile justice and assess the need for specialised judicial juvenile panels;*
 - *Repeal the Combating the Anti-Social Behaviour of Minor and Underage Persons in effect since 1958 and adopt a Criminal Justice Diversion and Imposition of Correctional Measures on Minor Persons Act;*
 - *Close down boarding institutions and introduce modern and effective measures to work with child perpetrators, including restorative justice and preventive work with them;*
 - *Create a protective social system, including a network of services (integrated services as well as correctional, psycho-social and protective measures and mechanisms of support) with respect to children who are at conflict with the law and their families;*
 - *Organise short-term professional qualification courses for children placed at correctional, social and pedagogical boarding institutions.*
-

Since 2012, the Ombudsman acting as the NPM has monitored the state and observance of the rights of children placed in social and pedagogical boarding houses and correctional boarding schools in the Republic of Bulgaria. In 2015, the institution released a special report after inspections of the existing six boarding houses in the country in which the Ombudsman insisted that the necessary steps should be taken to close the correctional boarding schools and social and pedagogical boarding houses due to the degrading living conditions.

Despite the emergency epidemic situation, in 2020 Ombudsman teams carried out to inspections at correctional boarding schools. The NPM and the Rights of Children Directorate found that some of the recommendations given in 2015 to the Ministry of Education had been fulfilled. **Three boarding institutions were closed down.** The number of the children at the remaining three is down from 218 to 100 children. Psychologists, model teachers and medical staff have been hired. The facilities have been improved. The relationships between children and teachers are good.

Still, **the reform of juvenile justice in Bulgaria continues to be at its nascent stage.** These institutions should have been closed down a long time ago because they do not meet the international standards for children in conflict with the law. They were built in the 1960s; the buildings are old and remote from regional centres; the children placed there do not have access to quality

education and medical care. Their relatives are unable to visit them due to the remote locations of the institutions and the lack of funds. The educational process is at a very low level.

The Criminal Justice Diversion and Imposition of Correctional Measures on Minor Persons Act, which is the main driver of reforms, has not been adopted yet. The main idea of the new law is related to restorative juvenile justice. The placement of children at correctional institutions should be a measure of last resort. It is critical to set up specialised juvenile justice panels as well as to close down the existing boarding institutions and open new alternative services for children in conflict with the law which are in line with their interests and do not violate their rights. Furthermore, to ensure easier

integration of the children in conflict with the law, funding should be envisaged for the development of services and programs targeted at minors, especially in the area of vocational training, and for the implementation of effective programs and services for prevention, support and reintegration of the children in conflict with the law.

In 2021, the Ombudsman acting as the NPM will continue to monitor the reforms in juvenile justice.

Results of NPM inspections

In January 2021, teams of the NPM and the Rights of Children Directorate carried out inspections at the Correctional Boarding Schools (CBS) – Rakitovo and Podem. The inspection covered the profile of the children placed there and the living conditions; education and additional activities; attitude and protection measures with regard to the children placed there; medical care; administrative and technical capacity.

ANGEL UZUNOV CORRECTIONAL BOARDING SCHOOL, Town of RAKITOVO

1. Material conditions

At the time of the inspection, 60 boys were placed at Angel Uzunov Correctional Boarding School, Rakitovo, of whom 56 children were there in practice.

The CBS consists of two main buildings: the first one houses the living quarters for the children, the kitchen and the canteen; the second one houses the school and the administration. The CBS is located over a large area in a pine forest, the fence is missing in places, with a spacious yard and a playground. The school has study rooms, a gymnasium, a sensory room and a computer lab. The corridors of the school and the dormitory are fitted with video surveillance cameras.

The NPM found improvement in the facilities. The bathrooms and the canteen were renovated. The children's rooms still have obsolete furniture and lack sufficient personal space. According to the headmaster, the furniture is to be changed.

The NPM team saw the menu for the week from 18.01.2021 to 24.01.2021 and found that the children's menu was in line with the requirements of Ordinance No. 26 of 2000 on Healthy Nutrition for Students. The children's food is prepared based on a set of recipes with set calories. One of the NPM recommendations from a previous inspection that the children's menu should include milk and yoghurt as well as fresh vegetables has been implemented.

2. Education and training

The education of the children and youth is organised from the second grade to the twelfth grade. It is in one shift only, from 8:00 am till 1:30 pm. In the afternoon, the students attend activities based on interests in 6 groups which is supported under the Support for Success project of the Ministry of Education and Science. Additional support in Bulgarian and literature as well as in mathematics is provided to the students lagging behind. Due to the small number of children per class, a mixed form of training needs to be practiced as well. Most boys at the CBS did not attend school regularly before that or attended only formally which has had an impact both on their knowledge and on their motivation

to study. They come from a family and social environment where education is not considered a value and they were not supported in the process. The teachers share that they need to revise and make up for many gaps in the knowledge of their students as they go. They use the self-preparation classes to this end.

As a whole, the general educational knowledge of the students is not good, especially in the mixed classes. There are children who find it hard to read and write but have completed the fifth or the sixth grade. More importantly, the teachers are trying to create more sustainable habits of studying for the children as well as work habits.

Both collective and individual correctional activities are carried out with the minor and underage persons. There are workshops there, after the eighth grade, the children acquire skills and wood and metal working. A problem the CDS leadership identified is that the training for a professional qualification under the Professional Qualifications Act is three years. Most boys cannot complete it and receive the respective certificates. A suggestion was made to consider an accelerated training program for the children with term-bound measures.

In this regard, the NPM recommends to the Minister of Education that 6-month programs be prepared for obtaining a professional qualification outside the school curriculum and that additional funds be provided by the MES. It is critical for the children to acquire professional qualifications because this will give them a chance of an easier reintegration in society and finding appropriate jobs.

One of the most meaningful projects implemented at the SBC is with the Re-Act Association and involved the creation of a bicycle workshop. The pandemic and the associated emergency measures have restricted completely the work of non-governmental organisations and volunteers with the children and youth at the CBS and they certainly miss it. The isolation is even greater and more tangible for them.

The files of the children and youth are ordered by grades and contain details about the educational level and certificates from their previous schools.

Upon the headmaster's initiative, contacts are made with employers who need workers with specialties such as wood and metal working and there have already been several successful cases.

3. Medical care

The CBS has a medical office. Albeit obsolete, the medical office meets the requirements of Ordinance No. 3 of 27 April 2000 on the Medical Offices at Child Institutions and Schools of the Ministry of Health. There is an equipped emergency cabinet. The office is staffed by a full-time paramedic and has a complete set of medical documents in line with the ordinance but they are not filled out. All children attended prophylactic examinations during the year.

All students have been assigned *ex officio* a general practitioner doctor and dentist. There are three students at the CBS who need constant medications – convulex, diagnosed with epilepsy. In 2020, the children were examined by a child psychiatrist from Plovdiv. Twelve students were diagnosed with: mild to moderate intellectual disabilities and, in this regard, resource help was assigned for them from a model teacher in Pazardzhik. For every child, there are individual plans for

work with children with intellectual disabilities and plans for additional assistance related to difficulties in the educational process and support for social skills.

The interviews with the psychologist and paramedic established that no children take psychoactive substances.

4. Administration and management

As seen from the list of positions, 35 people work at the CBS of whom: 1 headmaster, 1 assistant headmaster, 23 pedagogical specialists, 10 administrative and support staff.

The staff members are on duty as per a schedule so that there are pedagogical specialists all the time (two educators stay during the night) and continuity between the shifts.

5. Protection measures

During the previous NPM inspection, a recommendation was made to the headmaster of Angel Uzunov CBS, Rakitovo, to ensure supervision of the staff and to hire an external psychologist who would work on restoring the basis of trust between the children and the CBS staff. In this regard, the NPM paid special attention to the relationships between staff and children. The interviews with the children established that the psychosocial environment at the CBS was improved. As seen, the children trust the staff. The NPM became familiar with the Methodological Guidance on the development of individual student support plans related to their individual abilities and with some of the individual plans for the children. According to the psychologist, the staff are supervised regularly. During the inspection, the NPM attended a survey with the children aimed to examine their relationships with the pedagogical staff. The NPM found that the survey was not anonymous. In this regard, the NPM recommends to the administration of Angel Uzunov CBS to organise any subsequent surveys as anonymous. Upon the proposal of the Local Anti-Social Behaviour Commission, in 2020 two CBS children were released ahead of the term laid down in the judgment.

The team inspected the register of disciplinary sanctions and the register of complaints. No sanctions with respect to the children were registered in 2020. One complaint was lodged by a child who suffered violence from another child. The CBS headmaster alerted the Rakitovo Police Department.

The team also became familiar with the personal files of the resident boys which contained: a judgment, an individual program for correctional and educational work and re-socialisation, needs assessment, report from the local ant-social behaviour commission, subsequent measures.

HRISTO BOTEV SECONDARY VOCATIONAL CORRECTIONAL BOARDING SCHOOL (SVCBS) – PODEM Village, PLEVEN Municipality

At the time of the inspection (18.01.2020), the CBS housed 10 girls aged from 14 to 17. The latest admission was in August 2020 by virtue of a judgment of the Yambol District Court; the admission judgment was executed upon the express insistence of the girl's parents. Most girls were there due to wandering and running away from schools and residential services where they had been placed.

There were no children outside the CBS and there were no escapes in the past five months.

During the visit of the Ombudsman team, the girls were in class and conversations with them were held during the break. Worthy of note is that the girls are calm, they speak confidently about their problems and achievements in sports, the basketball team and the medals they have won.

1. Material conditions

The material conditions at the Secondary Vocational Correctional Boarding School (SVCBS) – Podem are good as a whole; visible efforts are made to maintain hygiene and the obsolete facilities.

The school has two main buildings. The first one houses the administration and study rooms; the second one – the dormitories, the kitchen and the canteen. The school also has the so called Dream house – a luxury building with luxury furniture built with funding donated by the SES Foundation, Germany, which, at the time, is closed and is not used for the purposes it was created for. The main reason for this is the lack of funds for its maintenance.

The dormitories are heated in the evening because the girls are in the school building or outside almost the entire day.

According to the headmaster and the girls, the bathroom is used two a week as a mandatory rule and they can use it on other days if they want to. The girls themselves wash their personal clothes and underwear.

2. Education and training

SVCBS Podem teaches students from the fifth to the tenth grade and has mixed classes. The classrooms are well equipped, there is a modern computer lab used only when a teacher is present. There are no children with special educational needs; a model teacher is needed for one of the girls but her mother would not cooperate in this regard.

The girls confidently spoke about their training and results. It can be noted that in Podem, unlike most CBS, there is a more intensified and quality educational process. The teachers share that there are not frequent breaches of discipline, both in class or refusals to attend class.

At the CBS, the students learn tailoring and those in grades 9 to 12 obtain a qualification – tailoring operator. This is a framework program in which a qualification is acquired in 2 years which is a first-level professional qualification. The students said they were happy with their new skills.

As a whole, the CBS offers very good opportunities for additional training and qualification of the students in cooking and hairdressing; however, they are not held at the moment, only tailoring. During the non-working days, there is an educator on duty and the CBS security.

3. Medical care

Medical care from a doctor is available and twice a week they are visited by a paramedic. At the time of the inspection, there were no pregnant girls or children with chronic illnesses. The issue with ensuring a medical office has not been resolved yet; the reason cited is that the municipality cannot ensure a medical specialist.

The administration has set up a room for medical purposes where medications are stored in quantities and types different from the ones necessary for urgent help as per Ordinance No. 3 on the Medical Offices at Child Institutions and Schools of the Ministry of Health. This is contrary to the health legislation and casts doubt over the medical assistance provided at the CBS. The room also has a dentist's chair which is used for prophylactic examinations.

All students have been assigned *ex officio* a general practitioner doctor and dentist. The doctor visits the CBS twice a week. The dentist works three times a week in the village. All students have undergone prophylactic examinations and subsequent control tests. The students' medical records (descriptions of diagnoses, examination documents, personal medical cards, medical certificates upon admission, etc.) are kept in their administrative files. The general practitioner doctor for the CBS takes part in the preparation of the menu for students in line with the regulatory requirements.

During the interviews, the students said that they were happy with the medical and dentist services at the CBS. No complaints were made about the food or its quantity. As seen from the weekly menu, it is diverse and meets the requirements of Ordinance No. 37/21.07.2009 of the Ministry of Health.

No cases of COVID-19 have been found.

4. Administration and management

As seen from the approved list of positions, 16 people work at the CBS of whom: 1 headmaster, 5 teachers, 3 educators, 1 psychologist – half-time, 1 accountant, 1 housekeeper, 2 cooks, general maintenance staff and cleaner. All teachers and educators have higher education.

The staff work on duty ensuring presence of pedagogical staff throughout the day.

During the visit, the girls communicated freely with their teachers and the psychologist which showed a change in the attitude to the residents. The atmosphere was calm and developing.

The annual budget is BGN 449,179 which poses grave difficulties to maintain the activities. Targeted funds for extracurricular work and activities are missing.

The CBS team shared that they were worried about the lack of clarity about the reforms and the specific deadlines. This has an impact on their motivation together with the uncertainty faced by the teams of the CBS in Zavet and Kereka which were closed down. Another important matter they raised is the lack of any interest or analyses of their work, best practice and experience in correctional and educational activities which could be useful in the process of juvenile justice reform.

5. Protection measures

During the visit, the NPM team found that the psychosocial climate at SVCBS Podem was good. A change was found since the last visit of the Ombudsman in September 2017 together with the consultant Herman Reider who organised expert groups with children; since then, the change has been positive. The tension between the staff and the children as well as among the children noted during previous inspections has been overcome. Sanctions other than those set out in the statutory instruments are no longer imposed. The girls certainly trust the staff and a positive role for this has been the Mentorship for Inclusion project implemented by Association Pleven Public Fund – Chitalishta with

the support of the Active Citizens Fund. The mentorship implemented in support of young people with deviant behaviour residing in institutions has yielded results with respect to the girls' behaviour. The mentors were different people, with different professions, who created positive connections with them. The family vacations were very well accepted. The school psychologist talked about the connections created during the project and the development of the participants in it.

No cases of physical abuse among the children have been found. No internal theft has been registered.

Telephone calls are allowed 2-3 times a week with their personal phones; they can use applications such as Facebook and Skype twice and a land-line phone every evening.

The CBS staff work actively for the socialisation of the girls after the end of the measure. Their latest case was a girl whose parents legally separated from her three months before she turned 18; according to them, the reason was property concerns. They had significant difficulties with her ID card due to the lack of a registration address but they finally managed to resolve the issue.

Unfortunately, the girls' parents are not active and they definitely withdraw from parental care. The resident girls find it hard to understand and accept the abandoning which is often the reason for their conduct and aggression. All the girls spent the winter holidays at the CBS due to the lack of money and desire of the parents to take them back.

They talk about a girl who achieved a significant progress during the years of her stay, she had dreams and plans but shortly before she turned 18, her mother came and took her to France where, according to reports, the girl is a prostitute.

The check of the instructions from inspections of competent authorities found that the last inspection of the State Agency for Child Protection had been in 2016. During the review of the files, the team found that in the educational case of the girl M.B. the court imposed the more lenient measure of "admission to social and pedagogical boarding house" but, due to the lack of such an institution, the child was placed in the CBS. A good practice would be to include a social worker on the staff list; this could also be done under programs. In this regard, the team recommends an even more active cooperation of the CBS and the child protection departments as per the place of residence of the children.

Furthermore, in view of the protection of the rights of the children, the inspection team recommended systemic monitoring of the CBS by the SACP and providing target funds under different programs for the development of the residents.

Anti-epidemic measures and standards

In 2020, the Ombudsman team complemented the monitoring of the rights of children in conflict with the law with the new special principles and standards adopted by the High Commissioner for Human Rights together with UNICEF and the Alliance for Child Protection in Humanitarian Action.³ The main goal is to pay special attention to the problem with the rights of children who are

³ COVID-19 and Children Deprived of Their Liberty

isolated in detention institutions while providing the necessary information about the international human rights standards and guidance on dealing with the COVID-19 crisis.

The UN High Commissioner for Human Rights, UNICEF and the Alliance for Child Protection in Humanitarian Action sound the alarm for the risk of a **disproportionate effect** on the rights of children placed at detention institutions. States must ensure that the human rights of every child deprived of liberty are fully respected, protected and fulfilled.

The main recommendations of the international organisations to the States are:

1. Instituting a moratorium on new children entering detention facilities.
2. Releasing all children who can be safely released.
3. Protecting the health and well-being of any children who must remain in detention.

It should be noted that the guidance of the UN Committee on the Rights of the Child is in the same vein; on 8 April 2020, it turned to all Member States noting that they need to plan special measures to protect the children whose vulnerability is further heightened as a result of the pandemic such as children deprived of liberty or in detention. A special focus is put on the rights of those children to maintain regular contacts with their families which should not be suspended by the restriction measures introduced.

Every measure needs to be considered in terms of its impact on the child, both in the short and long term. It is emphasised that every measures in the context of the COVID-19 pandemic needs to be adapted and understandable to the children, including for children with disabilities, children from vulnerable groups and children with limited access to the internet.

The Ombudsman of the Republic of Bulgaria, acting as the NPM, conducted an online survey with the headmasters of all social and pedagogical boarding houses (SPBH) and correctional boarding schools (CBS) which established the following circumstances:

- In line with the anti-epidemic measures, no child was released for home leave. According to information from the SPBH headmasters, the connection with the parents takes place via Skype, Facebook or by phone. At Angel Uzunov CSB, Rakitovo, the connection with the parents is by phone only because most of them do not have access to the internet at home.
- School classes continue as well as sport events outdoors even though the SPBH do not work at full capacity and there are issues with the number of staff which, in practice, puts at risk even the main activities with the children.
- So far, there have not been any registered sick children or staff members; the contact with personal doctors is by phone. The children and staff members are provided with personal protection equipment and disinfectants.

The inspection also found indications which are quite alarming, namely:

- During the state of emergency, **a new child was admitted** at Hristo Botev CBS, Podem, by virtue of a judgment of Yambol District Court.
- The SPBH **do not have instructions** or guidelines on special safety rules during the pandemic taking into account the specificities of the place where the children live together all the time and the staff, most of whom are close to retirement age, have considerable contacts in their ordinary environments.
- The headmasters and the staff do not have operational support from MES.
- In cases where any child in detention could lapse into aggression, anger or depression or fall in another psychological state, even be violent against other boys and girls, there is no possibility to provide psychological support online.

The NPM and the Rights of Children Directorate recommended to the Minister of Education and Science to take the necessary measures, within a reasonable time, to suspend placement of children at SPBH. Furthermore to ensure operational capacity for support for the children at SPBH and CBS to overcome the psychological consequences of social isolation which, undoubtedly, cause violence and aggression. To develop specific guidelines for SPBH headmasters and teams as to how to maintain the children's mental health. To ensure possibilities for online consultations with a psychologist who will also work with the parents, an example we have seen in Rakitovo. This function can be taken by the MES mobile group of psychologists who intervene in crisis situations. To analyse the risks for children at SPBH, mostly in the period of isolation, which could sever the already weak connections with their families.

It is important for this support to include other protection authorities, mostly child protection departments, which would work with the parents.

It is urgently necessary to develop special instructions with safety rules for children as well as for safe working conditions of the SPBH teams during the period of the state of emergency.

In conclusion, the Ombudsman reiterates the need for a permanent resolution of the issue with closing down SPBH and pursuing timely and effective measures for work with child perpetrators, including restorative justice and preventive work with them.

PROTECTION OF PERSONS WITH MENTAL ILLNESSES

Development of the regulatory framework and government policy

MAIN RECOMMENDATIONS

- *Streamline the funding mechanism for all inpatient institutions for persons with mental disorders; It should be tied to the quality of the health services provided;*
 - *Attract more applicants to the specialties “Psychiatry” and “Child Psychiatry”;*
 - *Prepare an assessment for relocation tied to the restructuring of all state psychiatric hospitals;*
 - *Launch a sufficient number of appropriate social services for children and adults with mental disorders;*
 - *Develop a Medical Standard Child Psychiatry.*
-

In October 2020, the Ministry of Health published a Draft Strategy for the Mental Health of the Citizens of the Republic of Bulgaria 2020-2030 along with the respective Action Plan and a deadline to submit opinions – 1 November 2020. In line with the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Ombudsman of the Republic of Bulgaria acting as the NPM monitors annually state psychiatric hospitals (SPH), mental health centres (MHC), social institutions for persons with mental disorders. The main recommendation the Ombudsman as the NPM has made over the years to the Ministry of Health concerns the launch of urgent reforms in the sector of state psychiatric help. In this regard, the NPM submitted an opinion to the Ministry of Health.

The NPM has found two main problems in the provision of psychiatric care at state psychiatric hospitals: the manner of funding and the lack of human resources. The

budget is a key tool in the management of the activities at psychiatric hospitals to ensure respect for the patients’ rights.

Psychiatric hospitals are funded based on the historical budget principle which, according to the NPM, in practice restricts the access of health-insured persons to quality medical care. The historical budget is a system which was in effect before the time of health insurance and is obsolete. With this budget, there is no direct connection between the amount and quality of the medical activities performed and the incoming funds. The funds provided to state psychiatric hospitals are highly insufficient. The so called historical budget is the reason both for the poor conditions at which patients are treated at medical institutions and for the heightened shortage of medical staff due to the low salaries for their work and the poor working conditions. The insufficient human resources for the medical and diagnostic processes, on the one hand, and the lack of funds for appropriate equipment, furniture and medical products, on the other hand, are factors which seriously decrease the quantity and quality of the medical care provided to patients.

In addition, the main differences in the principles applied to form the budgets of the different types of psychiatric medical institutions (e.g. SPH and MHC) create tension and opposition among the specialists in the system of in-patient psychiatric assistance which also impacts on the quality of the medical services. The Ombudsman acting as the NPM is of the opinion that the manner of funding should be uniform for all in-patient medical institutions and be tied to the quality of the medical services provided.

The lack of adequate funding results in a lack of specialised staff. In this regard, the Ombudsman acting as the NPM believes that the National Strategy for the Mental Health of the Citizens of the Republic of Bulgaria 2020-2030 should focus on attracting more applicants to the specialties “Psychiatry” and “Child Psychiatry” and changing and streamlining the manner of funding the in-patient medical institutions.

As regards achieving the goals, the current Draft Strategy envisages “relocation of some SPH in accordance with the assessment”. The 2021-2030 Action Plan, Strategic Goal “Creation of a network of services for comprehensive services for people with grave mental illnesses close to the place where they live, treatment centres for disorders related to nutrition” identifies only St. Ivan Rilski SPH for relocation – with a deadline until 2023. However, the 2021-2030 Action Plan does contain specific deadlines for assessment of the other state psychiatric hospitals as to which of them will be subject to relocation based on the criteria set.

The NPM notes that an actual relocation of SPH without restructuring would not fit in the new vision of service regions set out in the Strategy – every 150,000 people are assigned 50-75 psychiatric beds located at not more than 30 minutes from a patient’s home. A relocation assessment should be developed and it should be tied to the restructuring of all SPH. Furthermore, it is necessary to specify the deadlines and the resources needed to relocate the hospitals as well as appropriate buildings for this. Many SPH have inappropriate locations, facilities, human resources and are away from multi-profile hospitals for active treatment. Special problems pose the SPH in Karlukovo, Tsarev Brod, Tserova Koria, Radnevo, Karvuna, Byala. In 2019, the Ministry of Health decided that the Tsarev Brod SPH would be relocated to Shumen. So far, the hospital has not been relocated to Shumen. In this regard, the NPM proposes that the Action Plan include its relocation in 2021.

In relation to the activity to achieve the goals “Development and adoption of social services targeted at the needs of dependent patients”, it should be noted that the psychosocial rehabilitation of people and children with mental disorders is carried out through a system of services provided from the Ministry of Labour and Social Policy. Therefore, in addition to the Ministry of Health, the MLSP must have a major role in the implementation of the Mental Health Strategy.

A major part of the care for mentally ill people should be related to improving the quality of their life by building social services in the community such as daycare centres for people with mental disorders, family-type placement centres for adults with mental disorders, protected homes which, however, is not envisaged as an activity in the current Strategy. It is also critical to launch a sufficient number of appropriate social services for children with mental disorders. An example could be Sofia Municipality where one municipal daycare centre for children with autism was launched which is highly insufficient given the number of children in need. It is also essential to build day consulting centres for children and youth with addictions. In view of the limited number of centres in existence at the moment, the NPM recommends that the Action Plan envisage the construction of centres for children with addictions in every regional city.

The expected results of the activities envisaged include solely the opening of a network of daycare centres for psychosocial services which is highly insufficient. The NPM is of the opinion that a set of social services should be developed to meet the needs of the ill.

At the moment, SPH in the country house close to 200 permanent patients who cannot be discharged due to the lack of appropriate residential social services in the community. In practice, they do not have their own places to live, their relatives refuse to take care of them and the need for their stay at the medical institutions is based on social and not only health factors.

It is critical to work towards removing this group of ill people from their isolation in the hospital environment and provide them with integrated health and social care in the community. Instead, a 2010 amendment to Article 5 (4) of the Medical Institutions Act provides that the medical institutions for in-patient psychiatric help may provide social services under the terms and procedure of the Social Services Act. In practice, this change allows for the creation of daycare centres, family-type placement centres and protected homes on the territory of medical institutions.

The government policy for mental health should prioritise the need to increase the quality of life through successful deinstitutionalisation of the ill with mental disorders and their socialisation through services in the community. The launch of social services in the buildings of state psychiatric hospitals and mental health centres exacerbates the isolation and stigmatisation of the ill and, thus, prevents their appropriate treatment and violates their rights.

It is also necessary to support the families of the people with mental disorders at risk of abandonment in order to prevent their institutionalisation. The Action Plan should envisage an analysis of the number of adults and children in need of specialised social services in order to determine the number and location of the services by municipalities as well as the number of specialists to be engaged. Key participants in the analysis should be the Ministry of Health, the Ministry of Labour and Social Policy and the National Association of Municipalities.

The strategic goal “Decrease in the use of alcohol and narcotic substances and reduction in the instances of aggression and auto-aggression” of the Action Plan envisages the following activities: prevention programs to overcome the use of narcotic substances at places for deprivation of liberty (PDL); model program to reduce the health damage (dissemination of needles, syringes, etc.) at PDL. It should be noted that these activities have already been implemented at PDL under the previous strategy and they do not have a lasting effect. Directorate General Execution of Punishment (DGEP) has a Psychological Laboratory Section which develops programs for social rehabilitation of the persons deprived of liberty. One of the main programs of the social workers is to overcome the use of opioid substances at PDL. In this regard, the NPM suggests that the Action Plan envisage an increase in the qualification of psychologists and social workers at prisons.

The activity envisaged to implement programs for treatment with opioid agonists and agonists-antagonists at PLD – Sofia was also part of a previous strategy; to this end, DGEP created ½ position for a psychiatrist. The psychiatrist invited deemed the premises designated for substitute therapy to be insufficient. At the same time, as of 2014 Sofia Prison and the detention facilities in Sofia are part of a private program of substitute therapy with methadone.

The Draft Strategy, in particular the section on psychiatric help at PDL, notes with respect to the hospital at Lovech prison that there are no female beds and this hampers the medical care. The NPM inspections found that the Male Psychiatric Ward opened a section with 13 female beds. An alarming fact that NPM has identified over the years is the large per cent of the persons deprived of liberty with mental disorders or persons who later develop such during their time in prison. In October 2019, the inspection at Sliven Prison found that 42 women had mental disorders. In this regard, the NPM recommends that the Action plan should envisage the creation of a screening program for mental disorders in the penitentiary system.

The 2021 - 2030 Action Plan accompanying the Strategy provides for the launch of mental health centres in the regional cities with no such structures, namely 7 regional cities (Vidin, Montana, Gabrovo, Silistra, Shumen, Kyustendil, Pernik) by 2024. In relation to the building of the said mental health centres, an assessment should be made if the deadline is realistic in view of the lack of psychiatrists in these places.

The Draft Strategy envisages also the building of mental health centres in the community. They will provide mainly out-patient care and act as the link with psychosocial care in the community. This entails the termination of in-patient care in the current mental health centres. The NPM is of the opinion that there should be a greater clarity about this process which should be tied to activities and deadlines in the Action Plan.

For years the NPM has sounded the alarm about the need to create child psychiatric clinics. The number of the wards and specialists in child psychology is highly insufficient at the moment. The activities laid down in the Action Plan to open three psychiatric clinics for children and youth at the University Hospitals in Pleven, Plovdiv and Stara Zagora is a positive step towards the reform of child psychiatry. The NPM proposes the inclusion of a ward in child psychiatry at the National Hospital for Children and the development of a Medical Standard Child Psychiatry.

Results of NPM inspections

In 2020, the NPM carried out three inspections at medical institutions for hospital psychiatric help: the state psychiatric hospitals in Sevlievo, Tserova Korja and Byala.

The inspection encompassed the structure, the material and living conditions, the equipment and furniture of the medical institutions, the availability of medical and non-medical specialists, the admission regime and others. The team paid special attention to the patients' rights during the state of emergency in the country and the subsequent epidemic situation.

STATE PSYCHIATRIC HOSPITAL – Town of SEVLIEVO

Sevlievo SPH has a capacity of 118 beds; at the time of the inspection, 80 patients were accommodated. There were 6 deaths as of 14.09.2020. Mandatory treatment is provided for 17 people from 01.01.2020 to 14.09.2020.

During the on-site inspection, the NPM team found the material and technical facilities in a good condition. Major renovation works have been carried out, insulation of change of window frames in the buildings of the hospital, gasification of the premises and the kitchen. A negative impression was the neglected yard. Furthermore, the three-story building at the hospital does not have a lift which makes the movement of patients with disabilities hard.

The NPM team did not overcrowded wards. A negative finding is related to the patients' food-day which, as of 30.09.2020, was BGN 2.30 while the food-day per patient in 2011 was BGN 2.55. According to the inflation calculation of the National Statistical Institute, from January 2011 till October 2020, the consumer prices inflation index was 12.9% which means that a patient's food-day as of October 2020 should be at least BGN 2.87. In this, not only is the food-day not increased but it is also decreased by 24 stotinkas. The weekly menus provided can lead to the conclusion about insufficiency of dairy products, eggs and meat in the diet which, according to the NPM, is not diversified.

During the past three years, the budget of the Work Salary Fund of all state psychiatric hospitals has been increased many times while the budget of the Maintenance Fund remains the same, even reduced in some hospitals. The Work Salary Fund at Sevlievo SPH in 2018 was BGN 1,631,800, in 2019 – BGN 1,803,700, in 2020 – BGN 1,982,500; in August, the Work Salary Fund was increased by another BGN 241,800 while the budget of the Maintenance Fund was the same in 2018, 2019 and 2020 – BGN 451,200. According to the analysis of the activities of Sevlievo SPH, BGN 125,000 was spent for food and medicines for the entire 2019 and BGN 4.17 was set per patient. A medication-day in 2011 was BGN 4.99, in 2020 – BGN 1.51. The value of one discharged patient in 2017 was BGN

3,350, in 2018 – BGN 3,380 and in 2019 – BGN 3,736. As seen from the analysis of the activities of Sevlievo SPH, in 2019 the patient maintenance increased only in the increase in the Work Salary Fund while the costs for heating, water, food, medicines, bed linen, medical consumables, etc. stayed the same, and some costs were even decreased.

According to the HPM, these funds are highly insufficient to provide quality health care to people with mental disorders.

Another alarming fact the NPM found is the patients' long stay. According to the analysis of 2019 activities of Sevlievo SPH, for the entire year 626 patients passed through the hospital given an average stay of 52 days. Pursuant to Ordinance No. 24 of 07.07.2004 on Approval of the Medical Standard Psychiatry, the minimum level of activities per a psychiatry clinic or ward at first-level competence is 120 patients passing through a year per every 10 beds, at second-level competence – 110 patients passing through a year per every 10 beds. This means that given the hospital capacity of 118 beds and competence of first and second levels, the minimum number of patients passing through a year is approximately.

Sevlievo SPH has 115 staff positions: 13 doctors, pharmacist, 41 nurses and assistant staff, 58 other non-medical staff, including cleaners, social workers, psychologists and other.

There has been a negative and lasting trend over the past years for a decrease in number of doctors specialising in psychiatry. At the moment, there are 13 doctors, of the, 4 are part-time and there are three vacancies for psychiatrists. There is one social worker at the hospital which the NPM finds highly insufficient. No work therapist is hired. Chapter V. Medical Institutions for In-Patient Psychiatric Help, Section 1.2.1. of Ordinance No. 24 of 07.07.2004 on Approval of the Medical Standard Psychiatry notes that a psychiatry clinic or ward of second-level competence must have at least three doctors of whom at least one with a recognised specialty in psychiatry. The wards for active treatment of men and women with acute psychoses, which are assigned second-level competence, are staffed by 2 full-time doctors and 4 part-time doctors with 2 vacancies. To fulfil the requirement of Medical Standard Psychiatry, 2 more full-time doctors need to be hired.

The insufficient number of doctors, nurses and support staff creates conditions for untimely treatment of poor quality and a risk with respect to the monitoring and care for patients with aggression and auto-aggression.

There are 6 patients at Sevlievo SPH which have been there for more than one year. Close to 30 patients from the hospital region are admitted to the hospital several times a year due to social reasons and lack of vacancies in the homes for placement of people with mental disorders.

The NPM paid special attention to the anti-epidemic measures at Sevlievo SPH. The hospital has designated rooms (filter zones) with the acute wards to monitor the newly admitted people. The doctors, nurses and support staff working the wards are brief every day about the anti-epidemic measures and protection. They have a remote thermometer to take the temperature of new patients and staff. Sevlievo SPH has all the necessary protection equipment. Rapid antigen test have been purchased. Staff have been trained to take samples and carry out PCR test.

STATE PSYCHIATRIC HOSPITAL – Village of TSEROVA KORJA

Tserova Korja SPH has a capacity of 140 beds; at the time of the inspection, 108 patients were admitted. As of 14.09.2020, there have been 3 deaths. Mandatory treatment is provided to 20 patients from 01.01.2020 to 14.09.2020.

The inspection of the structures of Tserova Koria SPH found good material and technical facilities at the medial institution. Funds from the Ministry of Health and donations over the years have been used for: major renovation works of the hospital building; kitchen section; boiler; canteen; a fence was built and the roof and sub-roof space have been renovated. A negative finding of the team is related to the patient' food-day which is BGN 2.29. In 2012, the food-day was BGN 2.27; when compared to September 2020, the increase is 2 stotinkas. According to the inflation calculation of the National Statistical Institute, from January 2012 till October 2020, the consumer prices inflation index was 10.3% which means that a patient's food-day as of October 2020 should be at least BGN 2.50. The weekly menus for the period 14.09.2020 to 28.09.2020 can lead to the conclusion of insufficient dairy products, cheese is offered only once, there is a limited quantity of milk with no yellow cheese or eggs. A medication-day for 2019 was BGN 1.20; in 2012, the medication-day was BGN 2.83, i.e. that seven years late the value of the medication-day decreased almost in half. The NPM reiterates that such minimum funds for in-patient care of people with mental disorders hamper completely the provision of quality medical care.

The Work Salary Fund at Tserova Koria SPH in 2018 was BGN 971,800, in 2019 – BGN 1,062,400, in 2020 – BGN 1,200,000 and, in August, it was further increased by BGN 241,800 while the budget of the Maintenance Fund was the same in 2018, 2019 and 2020 – BGN 500,000.

The NPM is of the opinion that this is highly insufficient to ensure quality health service to the people with mental disorders.

According to the analysis of the activities of Tserova Koria SPH, in 2019 840 patients passed through for in-patient care given an average stay of 44 days while 54 patients also underwent repeated examinations. The beds were occupied at 78% in 2019, i.e. the patients passing through were approximately 250 fewer people.

As of September 2020, the medical institution has 75 staff positions: 9 doctors (eight of them are psychiatrists), 25 health care specialists and other support staff – 41. The finding of the inspection team is that the medical staff positions at the hospital do not meet the requirements of Ordinance No. 24 of 07.07.2004 on Approval of the Medical Standard Psychiatry. The ward for active treatment of women with acute psychoses must have three doctors but only two are appointed.

There are 10 patients at Tserova Koria with a stay of more than one year. As of 24.09.2020, three patients are in the process of discharge to be placed at social services.

No patient deaths from COVID-19 were registered at Tserova Koria SPH for the period from 13.03.2020 to 24.04.2020. The hospital has provided personal protection equipment: masks, glasses, aprons, gloves, disinfectants, both to the entire staff and the residing patients. The newly admitted patients are provided with single-use utensils for the time of isolation. The premises and hospital rooms are disinfected four times, the medical staff exercise heightened control for the good personal hygiene of the patients.

Tserova Koria SPH has designated rooms where new patients are placed in isolation and their condition is monitored daily. The rooms are located in such a way that there is no overlap of the patient flows. The relatives of the patients at Tserova Koria SPH are informed about the anti-epidemic measures and the term for their effect. Contacts between patients and their relatives are ensured over the phone. The patients' relatives are in contact with the responsible doctors and receive timely information about the patients' health condition.

STATE PSYCHIATRIC HOSPITAL – Town of BYALA

Byala SPH has a capacity of 270 beds; as of the time of the inspection, there were 198 patients. As of 15.09.2020, there have been 5 deaths. As of 17.09.2020, 41 people are placed for mandatory treatment; the number of patients for involuntary treatment under Article 89 of the Criminal Code is 10.

In September 2020, the NPM carried out a repeated inspection at Byala SPH. The NPM found that the recommendations from the previous inspection in 2013 had not been implemented. No document was issued with the levels of competence of the hospital wards in line with Medical Standard Psychiatry approved by virtue of Ordinance No. 24 of 07.07.2004 of the Ministry of Health and the requirements of the Ordinance are not observed.

Furthermore, the recommendation for the renovation of all wards was not fulfilled in full. In March 2019, the Ruse Regional Health Inspectorate issued instructions for renovation at the second female ward and the third male ward with a deadline by July 2020. As of the date of the inspection, the wards were not renovated because the Ministry of Health had not provided funds. The number of bathrooms and toilets continues to be insufficient for the number of patients admitted.

In 2019, 1,082 patients passed through the hospital which, in view of the hospital capacity – 270 beds, is insufficient. Another alarming fact the NPM found is the patients' long stay. According to the analysis of the activities of Byala SPH, the average stay per patient in 2019 was 58 days and, as of October 2020, it is 66 days. Pursuant to Ordinance No. 24 of 07.07.2004 on Approval of the Medical Standard Psychiatry, the minimum level of activities per a psychiatry clinic or ward at first-level competence is 120 patients passing through a year per every 10 beds, at second-level competence – 110 patents passing through a year per every 10 beds. Even though the hospital does not have a document about the competence level, give the hospital capacity of 270 beds, the minimum number of patients passing through a year is approximately 3,000. There is also a large number of permanently residing patients – 22.

According to the analysis of the activities of Byala SPH, for the entire 2019 BGN 135,522.72 was spent for food, BGN 56,674.74 for medicines, BGN 23 for bed linen and clothes for the patients. According to the funds spent until October 2020, the food-day per patient is BGN 2.03, one medication-day is BGN 0.85 while, **in 2019, the funds for bed linen and clothes amounted to 2 stotinkas per patient for the entire stay.** The budget of the Maintenance Fund was the same in 2017, 2018, 2019 and 2020 – BGN 629,600.

The NPM reiterates that the funds for the maintenance per patient are highly insufficient to provide quality health care for the people with mental disorders.

Another concern is that, as of 15 September 2020, there are only three psychiatrists at Byala SPH for six functioning wards. According to the director, who is also a specialist in psychiatry, he works 12 hours every day, including weekends, due to the lack of specialists.

The total number of staff is 132 of whom 7 high-level medical staff and 33 medium-level medical staff. The medical staff is highly insufficient. The list of positions provided by the SPH director shows that there is no doctor appointed at the first male acute ward, including ward head. The ward itself is for patients in a grave mental situation.

During the inspection, the inspection team found insufficient medical specialists at Byala SPH. There is a shortage of psychiatrists and nurses with a qualification in “Healthcare Management” at the hospital. An example could be given: Sevlievo SPH with a capacity of 118 beds has 115 staff

while Byala SPH with almost three times the number of beds – 270 has almost the same staff – 132 but with fewer doctors specialising in psychiatry.

Byala SPH remains among the least reformed in the country. It continues to fail to meet the requirements of the Medical Standard Psychiatry approved with Ordinance No. 24 of 07.07.2004 of the Ministry of Health.

Moreover, at Byala SPH most patients were provided with mandatory and involuntary treatment – for the period from 01.01.2020 to 18.09.2020, 735 patients passed through of whom 41 were admitted for mandatory treatment under Article 155 of the Health Act for a period of 3 months and 10 patients were admitted for involuntary treatment under Article 89 of the Criminal Code for a period of 6 months. The treatment term of 32 patients was extended by 3 months, of 4 – by 6 months. In 2019, Byala SPH admitted 106 people for mandatory or involuntary treatment of whom 82 patients under Article 155 of the Health Act for a period of 3 months and 10 patients for involuntary treatment under Article 89 of the Criminal Code for a period of 6 months.

These patients are sentenced by the State to undergo hospital treatment and should be provided with the best medical care to master their condition and not to be treated at a hospital with no medical staff. The extension of the term for mandatory and involuntary treatment for a large part of the patients is indicative of the poor quality of the health care provided. This means that over the term set by the court – three months for mandatory treatment and six months for involuntary treatment, the medical institution did not manage to deal with the patient's condition.

Byala SPH has taken the following measures in relation to the COVID-19 pandemic: a risk assessment was made to identify dangers related to a new biologic agent coronavirus SARS-COV-2 causing COVID-19. Cleaning and disinfection of the work places in line with the Algorithm of Disinfection Activities at Sites of Public Use in the Conditions of Epidemic Dissemination of COVID-19 of the National Centre for Contagious and Parasitic Diseases. Compliance is ensured with Ordinance No. 3 of 2013 on Approval of the Medical Standard for Prevention and Control of Intra-hospital Infections; sufficient quantities of disinfectants, soap, single-use napkins have been ensured.

On 01.11.2020, the Ombudsman acting as the NPM sent an opinion to the Minister of Health about the Draft Strategy for the Mental Health of the Citizens of the Republic of Bulgaria 2020-2030 and the related Action Plan with the deadline of 1 November 2020 for opinions. One of the recommendations in the opinion is to prepare an assessment for the relocation to be tied to the restructuring of all state psychiatric hospitals in 2021. Furthermore, it is necessary to specify the terms and resources needed to relocate the hospitals. A number of state psychiatric hospitals do not have good locations, are with obsolete facilities, insufficient human resources and away from multi-profile hospitals for active treatment.

The NPM recommended to the Minister of Health to prepare an assessment for the relocation to be tied to the restructuring of all state psychiatric hospitals in 2021. Until such an assessment is ready, the Maintenance Fund of all state psychiatric hospitals should be increased and the capacity of Byala SPH should be reduced to 100 beds. A recommendation was made to the Minister of Labour and Social Policy to take action to transition the permanently residing patients in all state psychiatric hospitals to appropriate social services. As of 15.02.2021, there is still no response from the Ministry of Health or the Ministry of Labour and Social Policy.

Anti-epidemic measures and standards

In relation to the COVID-19 pandemic and the state of emergency declared in the Republic of Bulgaria on 13 March 2020, an NPM team interviewed the directors of the SPH in Tserova Korja, Tsarev Brod, Karvuna, Pazardzhik, Radnevo, Lovech and Karlukovo in the period 27.04 – 30.04.2020. The following was established based on the interviews:

At Tsarev Brod SPH, according to the director, due to the peculiarities of the buildings it is impossible to designate rooms to quarantine new patients. The new risk patients (who resided abroad, do not have relatives and/or permanent address) are not tested for COVID-19, even if they have symptoms. It was found that 3 people had had a high temperature and an infectionist had been consulted but no PCR test had been performed. In addition, the medical staff in contact with risk patients have not been tested so far. According to the director, it is expected that a patient who was in the Kingdom of Belgium would be admitted who cannot be isolated in a separate room and will be placed with other patients. This is a case of a hospital with 110 patients and 180 staff where the risk of COVID-19 is very large.

On 29.04.2020 Karvuna SPH set up 1 room with 4 beds for new patients; the room is located on the ground floor of the administrative building. There is no possibility to designate additional premises. According to the director, there was a new risk patient with respect to whom a PCR test was requested from the RHI. Furthermore, Burgas MHC transitioned a risk patient with tuberculosis to Karvuna SPH who was not tested for COVID-19.

Radnevo SPH designated rooms for quarantine which, however, have common sanitary units with other patients from the same corridor. No new risk patient was tested for COVID-19. As of the moment, the hospital has close to 250 patients and 162 staff.

Pazardzhik SPH designated 12 rooms to quarantine new patients; as of 30.04.2020, they are all occupied and, if a new patient is to be admitted, the persons will be placed in common rooms with the other patients. Using funds from the hospital budget, the director bought tests and examined 14 people on staff as well as 13 patients but there is no financial possibility to buy more tests.

At Tsarev Brod SPH there is a patient who claimed that he had not travelled abroad but it was found later that he had resided in France. He was not tested for COVID-19 either.

In relation to the finding, the NPM turned to the Minister of Health with the following recommendations: All risk patients, patients placed by virtue of a judgment and patients transitioned from MoI authorities or urgent teams at SPH must be examined carefully and tested for COVID-19. PCR tests need to be performed for the teams who work with risk patients. New patients must be placed only at medical institutions where they can be quarantined.

PROTECTION OF ASYLUM SEEKERS

Development of the regulatory framework and government policy

MAIN RECOMMENDATIONS

- *There is still no sufficient personal space for the foreigners in the sleeping rooms at SCTAF. The measure is envisaged under the Asylum and Migration Fund for the 2021-2027 programming period;*
 - *Improve the interinstitutional cooperation between SCTAF and SAD with respect to unaccompanied children held at SCTAF and hold regular meetings on the matters of protection of unaccompanied children;*
 - *Improve the interinstitutional cooperation between Mol, Migration Directorate and SAA to terminate the accommodation of unaccompanied foreign children at SCTAF.*
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A serious concern continues to be the systemic failure to resolve the issue with the inclusion of unaccompanied children in the orders of adult foreigners where they do not know each other and have no relations.

The Ombudsman has repeatedly stated that it is necessary to build an effective interinstitutional cooperation between the MoI, Migration Directorate, and SAA in order to terminate the placement of unaccompanied foreign children at SCTAF.

In relation to the representation of unaccompanied refugee children, amendments were proposed to the Asylum and Refugees Act in 2020. The Ombudsman issued an opinion on the proposed amendment to Article 25 as per the Bill to Amend the Asylum and Refugees Act. The Ombudsman supported the legislative efforts to guarantee the rights of unaccompanied children emphasising the importance of the concept of representation and the use of the National Legal Aid Office to carry out the representation of unaccompanied children will undoubtedly fill in the legal vacuum of

representation which has been causing problems for years.

Next, the Ombudsman points out that the proposed amendment to Article 35 of the Asylum and Refugees Act requiring a foreigner, within 30 days after registration at the population register, to lodge an application for the issuance of Bulgarian identity documents must be refined.

In 2020, an NPM inspection found cases of six unaccompanied minor children placed at SCTAF and included in the orders for adult foreigners without any acquaintance or family relations between them. In the specific case, the NPM found that the SAD authorities had been informed by Lyubimets SCTAF about the cases of the children but, due to formal obstacles and lack of resources (including a vehicle), the children had not been transitioned timely to the SAR centres and had been held illegally over several days. What is even more paradoxical in this case is that the adults with whom the minors were placed were transitioned before them. During the inspection, the NPM team talked to the head of Lyubimets SCTAF and the director of Svilengrad SAD and, after the intervention of the Ombudsman, the children were moved and transitioned to the SAR with transportation and security provided by the Migration Directorate.

The Ombudsman is raising a serious concern that this systemic problem has not been resolved yet, despite the numerous recommendations to the Migration Directorate and the Social Assistance Agency over the years. The NPM also recalls the case-law of the Bulgarian courts that unaccompanied

minors may not be assigned with adults arbitrarily but there must be a complete examination of the facts and circumstances of importance in every case of a child seeking protection. The administrative authority must gather evidence which irrefutably proves that the person listed as the person accompanying the minor is a parent of the applicant unaccompanied child or another adult who is responsible for them by virtue of the law or custom.

The Ombudsman made recommendations to the MoI, Migration Directorate and SAA to terminate the placement of unaccompanied foreign children at SCTAF and to improve the interinstitutional cooperation between SCTAF and SAD in relation to the unaccompanied children held at SCTAF.

In performance of the recommendations, on 13.10.2020 the SACP held a national-level meeting with representatives of MoI, SAR, Ministry of Health, the Child Protection Directorate at SAA, Haskovo RSAD and Svilengrad SAD to improve the coordination and interaction of the structures in the cases of unaccompanied foreign children.

Results of NPM inspections

SPECIALISED CENTRE FOR TEMPORARY ACCOMMODATION OF FOREIGNERS – Town of LYUBIMETS (LYUBIMETS SCTAF)

The centre administration has taken action to renovate and improve the facilities but the foreigners still do not have sufficient personal space. The NPM has recommended that action be taken to ensure sufficient personal space for the foreigners. The NPM team was informed that the measure was envisaged in the Asylum and Migration Fund for the 2021-2027 programming period. The NPM will follow up on this during subsequent inspections.

The foreigners' free time is still not used appropriately. The NPM welcomes the decision of the head of Lyubimets SCTAF that the foreigners should spend more time outdoors and the access ensured to this end.

During the interviews with foreigners placed there, the NPM did not receive signals of maltreatment or violence on the part of the centre staff.

During the inspection, the NPM inspection found cases of six unaccompanied minor children placed at SCTAF and included in the orders for adult foreigners without any acquaintance or family relations between them. In the specific case, the NPM found that the SAD authorities had been informed by Lyubimets SCTAF about the cases of the children but, due to formal obstacles and lack of resources (including a vehicle), the children had not been transitioned timely to the SAR centres and had been held illegally over several days. What is even more paradoxical in this case is that the adults with whom the minors were placed were transitioned before them. During the inspection, the NPM team talked to the head of Lyubimets SCTAF and the director of Svilengrad SAD and, after the intervention of the Ombudsman, the children were moved and transitioned to the SAR with transportation and security provided by the Migration Directorate.

The NPM team is raising a serious concern that this systemic problem has not been resolved yet, despite the numerous recommendations to the Migration Directorate and the Social Assistance Agency over the years. The NPM also recalls the case-law of the Bulgarian courts that unaccompanied minors may not be assigned with adults arbitrarily but there must be a complete examination of the facts and circumstances of importance in every case of a child seeking protection. The administrative authority must gather evidence which irrefutably proves that the person listed as the person

accompanying the minor is a parent of the applicant unaccompanied child or another adult who is responsible for them by virtue of the law or custom.

The NPM expressly emphasises that the interinstitutional cooperation should be improved and that regular meetings should be held on these matters, and expresses the readiness to participate in them, if necessary. **The NPM is of the opinion that it is inadmissible for children to be held at SCTAF due to the lack of coordination among the competent state authorities.**

The NPM made recommendations to the MoI, Migration Directorate and SAA to terminate the placement of unaccompanied foreign children at SCTAF and to improve the interinstitutional cooperation between SCTAF and SAD in relation to the unaccompanied children held at SCTAF.

In performance of the recommendations, on 13.10.2020 the SACP held a national-level meeting with representatives of MoI, SAR, Ministry of Health, the Child Protection Directorate at SAA, Haskovo RSAD and Svilengrad SAD to improve the coordination and interaction of the structures in the cases of unaccompanied foreign children.

The NPM did not find any change in the medical human resources at Lyubimets SCTAF. The NPM recommendation to ensure an ECG equipment for the work of the medical office has been implemented. Currently, in relation to the emergency epidemic situation, the foreigners are examined at a designated room in the placement building and in a wagon office – for those placed in wagons. The inspection found that the wagon office was not equipped for the purpose: it only has one desk. The designated room in the centre building has an emergency cabinet; during the summer period, the temperature in the room goes up which makes it impossible to store some of the medications. The NPM recommended to the doctor to monitor the requirements for the storage of the medications and that they be stored in places designated for the purpose and received a response that the necessary action had been taken.

When foreigners are transitions to the units of the SAR at the Council of Ministers, an examination is performed by a medical specialist at Lyubimets SCTAF and a rapid antigen test is carried out.

The NPM met with a foreigner who refuses to speak and, until recently, refused to eat; he is placed at the in-patient medical section for observation. He received consultation at the Medical Institute of the MoI Hospital and attempts were made to establish a contact with him via the Consular Office in Sofia but so far unsuccessfully.

The NPM found difficulties with dental assistance for the persons placed. The issue with the language barrier is yet to be resolved due to the lack of interpreters which poses an additional obstacle in the work of medical specialists.

During the random interviews with resident foreigners, the NPM did not receive complaints about the health care. The NPM received a request for assistance for an obstetric consultation due to concerns about pregnancy and the NPM informed the CSTAF doctor on site timely.

In relation to the NPM recommendation to make efforts to overcome the language barrier between the medical staff and the foreigners to ensure appropriate diagnostics of the foreigners' health situation, we received a response that assistance was sought from interpreters from the Bulgarian Red Cross and others.

REGIONAL RECEPTION CENTRE – Town of HARMANLI (HARMANLI RRC) AT THE STATE AGENCY FOR REFUGEES

At the time of the inspection, Harmanli RRC housed 219 persons seeking international protection, mainly from Syria and Iraq. The total number of children was 64 of whom 20 unaccompanied minors.

During the inspection of the facilities, the NPM found a relatively satisfying situation. There were leaks in Building 2. The inspection team was left with a very good impression of the construction of two children's playgrounds on the territory of the centre. The NPM received a response from the SAR that an examination would be conducted to find the reasons for the leaks in the building.

At the moment, the closed-type premises at Harmanli RRC have not been certified.

The food offered is catering delivered from Stara Zagora. The NPM received information that the children's remote learning was organised in such a way that the school delivered the materials to the children on site. In a response letter in relation to the NPM inspection, the SAR stated that mobile applications and platforms were also used in the children's remote training. The children receive additional support from Caritas staff.

The applicants for international protection attend courses in Bulgarian; the work on site and support for those seeking protection are carried out by UNHCHR, IOM, BHC, BRC and others.

The NPM did not find any change in providing medical services to people seeking international protection. All people placed have been assigned a general practitioner doctor who sees patients at the centre every Tuesday. Harmanli RRC has hired a part-time doctor and a part-time nurse, dermatologist once a week. In addition, a reception ward is set up with a medical office and isolation sections.

For a year and a half, Harmanli RRC has not had a dentist. The NPM recommended to the centre leadership to contact the RHIF for an ex officio appointed dentist. A problem was identified with the language barrier when health care is provided to the foreigners.

During the random interviews, the foreigners did not share information about difficulties to receive medical assistance.

The NPM made a recommendation that RHIF be contacted again for assistance in relation to finding a dentist for Harmanli RRC.

Anti-epidemic measures and standards

As early as 10 April 2020 the Ombudsman sent a recommendation to the respective institutions about the measures to be taken at the specialised centres for temporary accommodation of foreigners at the Migration Directorate and the registration reception centres at the CoM SAR in relation to the COVID-19 pandemic. The recommendation emphasises that every restrictive measure taken with respect to persons deprived of liberty as regards the prevention of COVID-19 needs to be based on the law and to be necessary, proportionate, observing human dignity and restricted in time. The persons deprived of liberty need to receive exhaustive information about all such measures in a language they understand.

SPECIALISED CENTRE FOR TEMPORARY ACCOMMODATION OF FOREIGNERS – Town of LYUBIMETS (LYUBIMETS SCTAF)

In 2020, the NPM inspected the Lyubimets SCTAF in the conditions of an emergency epidemic situation in relation to the COVID-19 pandemic. The Medical Institute of the MoI Hospital has developed and regularly updated the anti-epidemic instructions for the SCTAF in line with the provisions of the Ministry of Health and the specific situation at the centres. For the period March-December, 17 foreigners were registered at Lyubimets SCTAF and 203 foreigners at Sofia SCTAF with COVID-19.

Upon accommodation at Lyubimets SCTAF, foreigners are placed under mandatory 14-day quarantine. The main building of the centre housed 235 people, 12 of them under mandatory quarantine. In addition, wagons in the yard housed 120 foreigners (including families with young children) transitioned from Sofia SCTAF. The reason for their move is the existence of 28 clinically proven cases of COVID-19 at Sofia SCTAF. Even though the foreigners had been diagnosed as clinically healthy (and after isolation) upon the move from Sofia SCTAF, after their arrival at Lyubimets SCTAF they were again separated from the other foreigners which the NPM finds to be excessive insurance. The wagons are functionally equipped for living but are small and not appropriate for a prolonged stay. When tracking the case it was found that the foreigners stayed in them from 10 August till 23 November 2020 with an average stay of 22 days. It is important to note that the wagons were located at a short distance, there was no possibility for free movement or any activities which, in combination with the high temperatures, made the situation for the foreigners unacceptable, especially for the families with young children.

REGIONAL RECEPTION CENTRE – Town of HARMANLI (HARMANLI RRC) AT THE STATE AGENCY FOR REFUGEES

The State Agency for Refugees at the Council of Ministers has implemented and observes the anti-epidemic measures laid down by the Ministry of Health in relation to the COVID-19 pandemic. For the period March-December 2020, a total of 25 people accommodated at structures of the CoM SAR were diagnosed with COVID-19.

At the moment, all newly admitted people seeking protection are isolated for 14 days even though they have been through a 14-day quarantine at SCTAF before that and there are no indications of COVID-19 which is also reflected in their medical records. The NPM asked for additional information what caused the new 14-day quarantine for those accommodated at the SAR centres and whether and how many cases, if any, there were with people sick or having symptoms of COVID-19 during the second isolation. The NPM received a response that in accordance with Order RD05-645/22.10.20 of the CoM SAR Chair and the approved instructions accompanying it, all people subject to accommodation at CoM SAR territorial structures are accepted at SCTAF at the MoI Migration Directorate solely with a negative ABBOT antigen test before leaving the SCTAF and are not placed in quarantine. With respect to any foreigners who are not accepted at SCTAF, the procedure applied is – rapid antigen test upon admission, placement in quarantine for 10 days and PCR test after the end of the quarantine.

PROTECTION OF PERSONS DEPRIVED OF LIBERTY AT PLACES FOR THE SERVING OF PUNISHMENTS WITH THE MINISTRY OF JUSTICE

Development of the regulatory framework and government policy

MAIN RECOMMENDATIONS

- ***Make systemic efforts to resolve the problem with cockroaches and bed-bugs at places for deprivation of liberty;***
 - ***Improve the system of funding for social and health workers by introducing a new human resources policy;***
 - ***Take action to amend the EPDCA as regards “Medical Care” taking into account the national health system;***
 - ***Transform the medical centres into health offices within the meaning of the Health Act;***
 - ***Transform the specialised hospitals for persons deprived of liberty into hospitals for long-term treatment;***
 - ***Close down Debelt Open-Type Prison Hostel.***
-

It should be noted that in 2020 again the long-lasting promises of the Ministry of Justice for reforms in the health system of the penitentiary system and amendments to the EPDCA were not implemented. The NPM reiterates that such actions are urgently needed to identify the existing problems in the system and to provide for the actual possibilities to organise the health services for the persons deprived of liberty. The health services for the persons deprived of liberty have not improved. In 2020, 52 people died; in 2017, there were 36 deaths. Medical specialists continue to leave the system. Over the past year, the activities to provide out-patient medical assistance were supported and 20 medical specialists were hired under service contracts; general practitioner doctors were selected ex officio, in line with the national framework agreement.

In relation to the proposal submitted to the 44th National Assembly of the Republic of Bulgaria by a group of Members of Parliament for a Bill to Amend the Execution of Punishments and Detention in Custody Act, the Ombudsman expressed the following opinion:

As seen from the Bill and the accompanying motivation, the proposals aim to streamline the regime of judicial proceedings to

contest acts of authorities of execution of punishments envisaging that the acts on their merits will be challenged by the persons deprived of liberty and the cassation control will take place before the respective administrative courts as per the place of committing the crimes. This change is premised on the need to reduce the convoy activities related to significant human and financial resources.

The principle position of the Ombudsman acting as the NPM is that a substantive law, such as the Execution of Punishments and Detention in Custody Act, should not include judicial administration (procedural) norms. This is a way not to take into account the specificities in the execution of punishments but to restrict rights. It is indicative that by virtue of an act of a state authority detained are not only persons charged and defendants but also persons with mental disorders and migrants. Convoy activities are also necessary with these groups of people but they are not covered by the Bill. I voice my concern that this Bill does not correspond to and does not safeguard the equality

of citizens before the law, not only between those detained by virtue of an act of a state authority but also with respect to those detained citizens and the free citizens.

Next, it is important to note that pursuant to Article 125 of the Constitution, “The Supreme Administrative Court shall exercise supreme judicial supervision for the accurate and equal application of the laws in administrative justice.” This court would not be able to perform this constitutional obligation if a number of acts are excluded from its control. This will inevitably result in different practices regionally and make it necessary to seek interpretative judgments due to the diverse case-law.

Last but not least, a Bill to Amend the Civil Procedure Code amending some of the norms of the Criminal Procedure Code has already been provided for public discussion. The bill is related to the implementation of electronic justice and provides for the procedural rights in electronic form. The Bill’s § 33 proposes an amendment to Article 158 (3) of the Health Act to the effect that, in certain extraordinary circumstances, a person may take part in a case via video conference. The Ombudsman recommended to the Members of Parliament that this option should apply to all people detained by virtue of an act of a state authority even if there is no martial law, state of emergency, disaster or another extraordinary circumstance.

Despite the above opinion, the Bill was discussed at a plenary session and the proposed amendments were adopted on 03.12.2020.

In the 2019 Annual NPM Report, the Ombudsman recommended to the Minister of Justice to present to the Council of Ministers the Ombudsman’s recommendations to close down places for deprivation of liberty which do not meet the requirements (Kremikovtsi Hostel; Sofia Prison; Keramichna Fabrika Hostel in Vratsa). A planned inspection of Sofia Prison was not carried out in 2020 but it remains in the NPM’s focus of attention. On 31.12.2020, the Ministry of Justice website posted information that, “The persons deprived of liberty at Sofia Prison will welcome the New Year in a renovated building”. On 08.01.2021, our team visited the building of Sofia Prison and found that the information disseminated in the media was false. In fact, renovations were made of the north wing of the prison with particular renovation of the roof and sub-roof space. A total of 18 new sleeping rooms were constructed on the fourth floor of the same wing with separate sanitary units, a separate common bathroom and a laundry, and a new common kitchen but no persons deprived of liberty were placed there. New placements are expected in March 2021.

In relation to the implementation of the objectives and tasks set out in the Strategy for the Development of the Penitentiary System in the Republic of Bulgaria until 2025, the Ombudsman requested detailed information about the implementation of Section 11.1 of the Strategy (*development and steps to implement large-scale infrastructure sites – a new prison with sufficient capacity in Sofia or the vicinity; a new detention facility; a new administrative building for DGEP*). By letter registration No. 1222/03.02.2021, DGEP notes, “A land plot was provided by the Ministry of the Interior to the Ministry of Justice for the construction of a new administrative building of DGEP in Sofia, Vrazhdebna Residential Estate. The design of a new detention facility and administrative building in Vrazhdebna Residential Estate will begin in 2021 and, to this end, BGN 350,000 is envisaged in the DGEP capital expenditure budget.” The NPM finds the information provided to be highly insufficient in view of the specific questions asked. In 2021, the work concerning Sofia Prison and the respective hostels will continue and the objectives set out in the Strategy will be monitored in detail.

Results of NPM inspections

In 2020, the NPM carried out inspections at four prisons, nine prison hostels, four detention facilities and thirteen district departments at the MoI.

The inspections of the living conditions at a total of 18 places for deprivation of liberty at the Ministry of Justice show a positive trend of improvement of the housing conditions and reduction in the number of people placed.

The **long-standing problem with cockroaches and bed-bugs at places for deprivation of liberty** continues and this was found at all places inspected – even in places where major renovation works were completed. In this regard, recommendations have been issued to the DGEP to find alternative ways to deal with the issue. By letter registration No. 520/15.01.2021, DGEP note that, until 12.11.2020, planned and extraordinary actions were taken under contract No. 11179/13.11.2018 with the company DDD-1 OOD. After the expiry of the contract, funds were provided for disinfection until the conclusion of a new contract.

Circular letter No. 9472/29.09.2020 gives instructions to the heads of territorial services to take additional action to:

- Exercise ongoing control over living and common rooms for persons deprived of liberty as regards hygiene and storage of food;
- Create an organisation for sanitary treatment of every person deprived of liberty following admission to prison;
- High-temperature treatment of the bed linen and clothes of persons deprived of liberty.

This problem will undoubtedly be in the focus of attention of the NPM inspections during the current year as well.

Complaints continued about the high prices at prison canteens and the lack of jobs for persons deprived of liberty. The bad practice of holding public procurement procedures for the supply of food to canteens continues rather than transitioning to direct supplies from traders on site. Artificially high prices are created and the monopoly is strengthened with a list of items which can only be bought at the canteen and not brought in during visits.

A systemic deficiency the NPM has found over the years is **the lack of budget funding for adequate activities in the tasks of social workers**. The newly renovated detention centres do not have premises for social activities while the places with such premises (for example, Plovdiv Detention Centre) do not have social workers to perform them.

In addition due to the large number of persons deprived of liberty placed in every prison group in the entire penitentiary system, the execution of sentences is based on teams. This results in excessive workload for the social workers and this is why the individual plans are formal while the assessment related to changes in regime, moves to open-type hostels or provisional release are accompanied by subjectivism. In this regard, the judicial control provided for with the latest EPDCA amendments is influenced by the opinion of the administration.

The NPM finds that there are **conditions to violate the secrecy of correspondence**. Pursuant to Article 86 (3) EPDCA, “The correspondence of the persons deprived of liberty shall not be subject to control of the written content unless this is necessary to uncover and prevent grave crime.” As a

result of this provision, the administration at places for deprivation of liberty acquired powers of control over the correspondence of persons deprived of liberty without the sanction of a judicial authority. In this regard, the NPM is of the opinion that clear and accurate statutory criteria must be laid down for the cases when it is admissible to violate the secrecy of correspondence taking into account Article 34 of the Constitution of the Republic of Bulgaria which sets out:

“(1) The freedom and secrecy of correspondence and other communication shall be inviolable.

(2) Exceptions to this rule shall be allowed solely with a permission from the judiciary when this is necessary to uncover or prevent grave crime.”

In relation to the Bill to Amend the Execution of Punishments and Detention in Custody Act tabled before the 44th National Assembly of the Republic of Bulgaria by Mr. Krasimir Tsenov and a group of Members of Parliament and pursuant to Article 9 (1) (6) of the Regulations for the Organisation and Work of the Ombudsman, the Ombudsman expressed the following opinion:

“As seen from the Bill and the accompanying motivation, the proposals aim to streamline the regime of judicial proceedings to contest acts of authorities of execution of punishments envisaging that the acts on their merits will be challenged by the persons deprived of liberty and the cassation control will take place before the respective administrative courts as per the place of committing the crimes. This change is premised on the need to reduce the convoy activities related to significant human and financial resources.

The principle position of the Ombudsman acting as the NPM is that a substantive law, such as the Execution of Punishments and Detention in Custody Act, should not include judicial administration (procedural) norms. This is a way not to take into account the specificities in the execution of punishments but to restrict rights. It is indicative that by virtue of an act of a state authority detained are not only persons charged and defendants but also persons with mental disorders and migrants. Convoy activities are also necessary with these groups of people but they are not covered by the Bill. I voice my concern that this Bill does not correspond to and does not safeguard the equality of citizens before the law, not only between those detained by virtue of an act of a state authority but also with respect to those detained citizens and the free citizens.

Next, it is important to note that pursuant to Article 125 of the Constitution, “The Supreme Administrative Court shall exercise supreme judicial supervision for the accurate and equal application of the laws in administrative justice.” This court would not be able to perform this constitutional obligation, and its right, if a number of acts are excluded from its control. This will inevitably result in different practices regionally and make it necessary to seek interpretative judgments due to the diverse case-law.

Last but not least, a Bill to Amend the Civil Procedure Code amending some of the norms of the Criminal Procedure Code has already been provided for public discussion. The bill is related to the implementation of electronic justice and provides for the procedural rights in electronic form. The Bill’s § 33 proposes an amendment to Article 158 (3) of the Health Act to the effect that, in certain extraordinary circumstances, a person may take part in a case via video conference. The Ombudsman recommended to the Members of Parliament that this option should apply to all people detained by virtue of an act of a state authority even if there is no martial law, state of emergency, disaster or another extraordinary circumstance.”

Despite the above opinion, the Bill was discussed at a plenary session and the proposed amendments were adopted on 03.12.2020.

During the reporting period, there was a larger number of reports about violence both among persons deprived of liberty and on the part of the supervision and security staff. For example, a person deprived of liberty acting as support medical staff at the Sofia hospital for persons deprived of liberty traumatised a person deprived of liberty he provided care for. He was later removed. During NPM inspections at Sofia Prison and Lovech Prison in relation to beatings on the part of the supervision and security staff, the NPM recommended inquiries and, if violations are found, disciplinary proceedings against the staff members.

PRISON – Town of BOBOV DOL

Bobov Dol Prison has an open-type prison hostel – Samoranovo OTPH.

The detention facility on the territory of Kyustendil Municipality is located in Kyustendil. There are plans for this detention facility to be closed down and for a new one to be built on the territory of Samoranovo OTPH. During the 2020 inspection, an NPM team also inspected the place where it would be built. In this regard, the NPM recalls that the administration of the Ombudsman of the Republic of Bulgaria has received numerous complaints and signals from persons deprived of liberty and from citizens of the village of Samoranovo in relation to the quality and the quantity of water supplied; during winter and summer, sometimes there is none (it is a systemic problem). These complaints are confirmed by the inspections over the years. On its part, this leads to the conclusion that the conditions are not fit for living for the persons placed at Samoranovo OTPH and the supervision and security staff are forced to supply water from other locations. The water supply system of Samoranovo is old and obsolete. On the day of the inspection, the inspection team again found reduced supply of water.

In view of the above, the NPM sent a recommendation to the Minister of Justice that when a new detention facility would be built on the territory of Samoranovo OTPH and for the needs of the functioning of the prison hostel, a logistics assessment should be conducted and the necessary measures should be taken to guarantee the constant supply and the quality of the water and, if necessary, meetings should be held with the Dupnitsa Water and Sewerage Department and the Mayor of Dupnitsa Municipality. In a response by letter registration No. 9720/05.10.2020, DGEP informed the Ombudsman about the following:

“In view of the need to provide Samoranovo OTPH with the necessary quantities of water for drinking and living, periodic meetings were held between DGEP representatives, the director of the Dupnitsa Water and Sewerage Department and the Mayor of Dupnitsa Municipality. The information obtained makes it clear that it is expected that the Samoranovo water supply pipes will be replaced which would resolve the issue with the interrupted water supply at Samoranovo OTPH. To ensure the necessary water quantities and guarantee the continuity of water supply, in relation to the provisions of Article 44 of Ordinance No. 4/2004 on the Terms and Procedure to Connect Consumers and Use Water Supply and Sewerage Systems, it is necessary to build a facility to ensure the necessary reserve of water and the DGEP has taken the necessary steps in this regard. The design of the new detention facility will take into account the requirements of the water and sewerage department to design a facility to ensure the necessary quantity of water, i.e. construction of a tank (reservoir) on the plot for drinking and living with the respective pumps and equipment for continuous water supply. The reservoir will be supplied with water from the new Samoranovo water pipes.”

A) Living conditions

The prison was also visited by an NPM team in 2018; the planned renovation of the entire prison building and the roof began on the day of the visit. The deadline for completion of the construction and assembly works under a contract between Prison Affairs Fund SE and the company

GENOV and CO EOOD was 120 calendar days. This made it necessary for some persons deprived of liberty to be transferred to other teams for the duration of the renovation works.

In this regard, the NPM sent a recommendation then to the Director General of DGEP, in line with the provision of Article 62 read in conjunction with Article 43 EPDCA, to take the necessary measures to reduce the overcrowdedness at Bobov Dol Prison for the duration of the construction and assembly works. Unfortunately, this recommendation was not taken into account which was also confirmed during the 2020 inspection based on the NPM meetings with the persons deprived of liberty and the complaints and reports received at the administration of the Ombudsman.

As of the date of the 2020 inspection, the renovation was completed. Complete renovation was carried out of the prison building and the canteen, the electric equipment was replaced, there was a weekly menu announced. There is a bathroom in the corridor of every group and kitchen rooms were constructed.

The total number of persons serving the punishment of deprivation of liberty is 265, where the capacity based on 4 sq m is 492.

The employment of the persons deprived of liberty is due, to a large extent, to the approved staff positions. At Bobov Dol Prison, 7 persons deprived of liberty work at external sites with overnight stay on site. The contract with Paper Bags was renewed for preparation of gift bags and work on the territory of the prison. This production engages persons deprived of liberty with approved positions for 50; at the time of the inspection, 12 persons deprived of liberty were engaged in the activities. In the conditions of an emergency epidemic situation, the employment of the persons deprived of liberty has been reduced due to objective reasons.

The total number of applications for provisional release is 84. The prison head issued positive opinions for 16 and he himself proposed 15. The proceedings terminated by the Kyustendil Regional Court stand at 10, respectively the judgments appealed by the prison head are 3; appealed by persons deprived of liberty – 25, with no protests of the regional prosecutor.

The total number of persons deprived of liberty whose regime of serving the punishment was amended to a more lenient one than the initial one is 58. Under Article 198 (2) EPDCA, there are no persons sentenced to life imprisonment who are placed in common rooms under conditions for participation in work, education, training, sport and other activities with the other persons deprived of liberty.

The NPM again finds that the existing unused buildings on the territory of the former military unit at Samoranovo OTPH are falling apart. The buildings have not been condemned and a removal procedure has not been launched. The dentist equipment, refrigerator storage and food storage have been renovated.

The sanitary units underwent light renovation during the year.

The building has not been renovated since the opening of the hostel. The window frames which are in a poor condition have not been changed. The boilers and steam installation need to be renovated; also needed is a renovation of a refrigerator cabinet (not functional compressor); renovation of the kitchen; the kitchen appliances (stoves and ovens) are in a poor condition.

The inspection team received information about plans for major renovation of the hostel and the above assets will be fixed.

B) Medical care

The prison and the hostel have implemented the hygienic and anti-epidemic measures laid down by the Ministry of Health. DGEP created action algorithms; protection equipment and disinfectants are provided for the staff and the persons deprived of liberty.

No cases of COVID-19 have been registered as of the time of the inspection.

The prison medical centre provides care for persons deprived of liberty at the prison and at Samoranovo OTPH. It is staffed by: a paramedic under a service agreement and a general practitioner doctor as per the NHIF with a schedule of 4 hours. On these days, the paramedic visits Samoranovo OTPH. A psychiatrist comes to the prison every Wednesday. The prison dentist office works three times a week; on one day, it provides care for the persons deprived of liberty at Samoranovo OTPH.

The persons deprived of liberty receive care mainly from the paramedic: he gives medicines from the prison, keeps the entire documentation, bears responsibility for the hygienic and anti-epidemic regime, prepares reference information and all these activities are hard for him. There are omissions in the medical records. The general practitioner doctor examines persons deprived of liberty only for referral to specialists. The NPM finds that the working hours of the general practitioner doctor are not enough to provide quality medical care for the persons at the prison and the hostel. No complaints about the medical care at the prison and the hostel were made during the interviews.

PRISON – City of STARA ZAGORA

There are two open-type prison hostels at Stara Zagora Prison – Vereya and Stara Zagora, as well as one closed-type prison hostel – Cherna Gora.

A) Living conditions

In 2015 and 2016, the prison building and the canteen were completely renovated, the electric appliances were replaced, a weekly menu is announced. There is a bathroom in the corridor of every group and kitchen rooms were constructed. The facilities for outdoor stay were improved.

Light renovations were performed this year, including of the sleeping rooms. The admission section observes the 4 sq m of living space, the rooms have separate sanitary units. Despite the renovation, the inspection team found leaks on the walls and crumbling plaster.

All possibilities for voluntary unpaid work within the meaning of Article 80 (1) (1)-(5) EPDCA were used during the year. The active involvement of the persons deprived of liberty in improving and maintaining the facilities and in organising and holding creative, educational and sport activities helps to form and develop socially significant qualities and skills. This gives the persons deprived of liberty the feeling of significance and satisfaction.

In 2019, the prison head proposed 60 persons deprived of liberty for provisional release to the Stara Zagora Regional Court; the court approved 54. There were 14 proposals to the Stara Zagora Regional Court to reclassify persons deprived of liberty from open-type to closed-type. Proposals for changes in the regime to a stricter one than the initial one – 8. The Stara Zagora Regional Court approved the proposals.

In 2019, 12 persons deprived of liberty submitted applications for provisional release to the Stara Zagora Regional Court. In every case, the court took into account the opinion of the prison head. One person deprived of liberty was released in this way during the period.

Vereya Open-Type Prison Hostel was opened in April 2019.

The premises meet the European requirements; 4 sq m of living space is provided. The facilities at the place designated as a playground are obsolete and the NPM recommends that the sports facilities be replaced.

The material and living conditions at Stara Zagora OTPH are bad; they do not meet the requirements. The hostel has 3 buildings with 3 sleeping rooms with separate sanitary units. The team received information that renovation works of this hostel were planned to be completed by the end of the year. A new kitchen with a canteen would be built.

Cherna Gora CTPH underwent major renovation in 2019, including the canteen, the electric appliances and the boiler room. All sleeping rooms were renovated and have separate sanitary units. On the day of the inspection, 76 persons deprived of liberty were housed there.

The inspection team did not receive complaints from the residents of Cherna Gora CTPH.

A detention facility was opened on 02.05.2019 on the territory of the prison which, until then, was in the building of Stara Zagora Regional MoI Directorate. It has 16 cells for 56 detainees in keeping with 4 sq m of living space.

The detention facility has a room for meetings with attorneys.

The trend to move detention facilities to prison positions is positive but not complete. All detention facilities need to be moved from the structure of probation and transferred to the prison system.

To this end, the NPM sent a recommendation to DGEP that regional detention facilities be set up at six prisons, for example in Vratsa, Pleven, Varna, Burgas, Plovdiv and Sofia that the allocation by detention facilities should not be based on the administrative and territorial units of the country but on jurisdiction. For example, people detained in Svishtov should be placed in Belene if the Svishtov District Court has jurisdiction in order to reduce the duration of the convoy activities and to avoid unnecessary convoying to Veliko Tarnovo.

Second, obviously there is no need for a section for persons charged and defendants in the prison if there is a detention facility on its territory. Any persons with respect to whom a prosecutor has ordered isolation from other persons charged should be placed in a high-security zone while the other persons charged, after the admission section, should be moved directly to the section for persons charged and defendants.

A recommendation was also sent to the DGEP Director General to set up a working group to discuss and prepare the structural changes together with the necessary legislative proposals.

By letter registration No. 503 of 15.01.2021, the Ombudsman was informed that, "Detention facilities were built on the territory of the prisons in Vratsa, Pleven, Varna, Burgas, Plovdiv and Sofia which accommodate detainees based on jurisdiction and not on the administrative and territorial units. A review was conducted of the possibility to set up a working group in relation to legislative amendments to provide for the placement of persons charged and defendants in separate rooms in the prison despite the existence of a detention facility on its territory."

B) Medical care

An anti-epidemic regime was implemented at the prison and the hostels which is observed in different degrees at the sites inspected.

For example, at Cherha Gora CTPH, the NPM team was allowed in after the temperature was taken, the supervision and security staff wore protective masks while, during the visit to the prison, the temperature was not taken and not all staff wore masks. The prison and the hostel were provided with personal protection equipment and disinfectants by DGEP; procedures for work in the conditions of COVID-19 are set out. So far, there was one probable case of a sick person deprived of liberty. The medical specialists shared that during the state of emergency, despite the official procedures for cooperation with regional health inspections, they had refused to examine a person deprived of liberty.

The prison has designated separate rooms with a separate sanitary unit for placement of people infected with COVID-19.

The medical centre provides care for the persons deprived of liberty at the prison and the prison hostels and the detainees at the detention facility. The centre is staffed by two doctors, one paramedic, one nurse and a dentist. There is a vacancy for a paramedic at Cherna Gora CTPH. As per a schedule, a medical specialist from the medical centre visits Cherna Gora CTPH and Vereya OTPH once a week. The detention facility is within the prison and the detainees have daily access to medical assistance. Specialised medical assistance is also provided on site by external specialists. The medical specialists did not share any difficulties to ensure consultations/hospitalisation of persons deprived of liberty at external medical institutions. The dentist's office works as per an hourly schedule drawn up for the prison and the hostels.

During the inspection there were complaints that certain persons deprived of liberty were allowed to see a doctor all the time and received medicines which they would later sell while other persons deprived of liberty could not go for an examination. On site, the medical centre explained that they screened the persons listed for examinations and that they would sometimes give single pills to persons deprived of liberty without objective symptoms due to the pressure on the part of the latter. The NPM checked on site the case of a person deprived of liberty who claimed that he was not treated. His objective situation was: bruised and cyanotic lower limbs with trophic ulcers on the shanks. The medical centre provided information that the person was a patient under monitoring with a chronic cardiovascular disease and therapy assigned. The previous week he was consulted by a cardiologist and there were planned for consultation with a surgeon for the problems in the lower limbs.

During the interviews, there was also a complaint about the quality (caloric value) of the food. A person deprived of liberty said that he was doing sports and wanted an individual nutrition regime with a caloric value in line with his physical needs. The NPM finds these demands unjustified.

As regards the food at prisons as a whole, the NPM recommends to the DGEP to update the currently effective food tables (from 2007) in line with Ordinance No. 1/2018 of the Ministry of Health on the Physiological Norms of Food for the Population. On this matter, we received assurance from DGEP that there would be an update to the system as per the Ordinance of the Ministry of Health.

The NPM also met with a person deprived of liberty who, in view of his deteriorating condition (an oncological condition), wanted provisional release. The NPM finds it necessary to recall that in cases of oncological and other diseases which cannot be treated in the penitentiary system, the medical specialists could activate the procedure under Article 447 (3) of the Criminal Procedure Code.

The inspection of the medical records found that they were maintained strictly. The register of traumatic damage in the detention facility for 2020 showed 7 cases of traumatic damage sustained during the detention of people by MoI staff. The director of the medical centre reported them as per the order of the Ministry of Justice of 2017.

PRISON – City of BURGAS

Burgas Prison has two open-type prison hostels – Stroitel and Zhitarovo, and a closed-type prison hostel – Debelt.

A) Living conditions

The prison building underwent major renovation in 2017. The inspected sleeping rooms had the necessary living space in view of the number of people placed but they do not meet the requirements due to the dampness and mould even though slight renovation had been carried out. The inspection team received numerous complaints about cockroaches and bed-bugs.

The material and living conditions at the high security zone also do not meet the European treatment requirements. There is dampness and mould as well cockroaches. The sleeping premises have separate sanitary units.

The admission section observes the requirement of 4 sq m of living space and the rooms are fitted with separate sanitary units. It is located on the 4th floor in the building of Burgas Prison (a large corridor) and has 15 sleeping rooms for differentiated placement of persons deprived of liberty. The admitted persons deprived of liberty stay there from 14 days to one month. Subject to separate placement from the others are: those sentenced to imprisonment up to 5 years for the first time on account of intentional crime and those sentenced for crime due to negligence. Also separately from the others are placed those serving punishments at an open-type hostel, the persons charged and defendants admitted from detention facilities whose stay is up to 7 days, those detained under European arrest warrants and foreigners.

Order No. CHR-05-221/21.08.2019 of the Minister of Justice approves the staff positions at Burgas Prison, Category I – 353.5 positions. The half position is for a cleric.

As of 31.12.2019, there were 51 vacancies.

In 2019, service agreements were concluded for the position “dental medicine doctor” – 1 and the position of “director of medical centre” – 1.

In 2019, at Burgas Prison there were 116 orders issued under Article 35 and Article 46 of the EPDCA Implementing Regulations. As per the list of jobs for persons deprived of liberty engaged in service and housekeeping activities by order No. CHR – 05-322/31.12.2018 of the Minister of Justice, there are 89 jobs. On average, 70 of them were occupied during the year. In 2019, the average number of persons deprived of liberty engaged in work activities was 147; of them, 52 persons deprived of liberty from the prison building, 35 persons deprived of liberty from Stroitel OTH, 32 persons deprived of liberty from Zhitarovo OTH, 34 persons deprived of liberty from Debelt CTH.

Every application or proposal for provisional release is sent to the Burgas Regional Court accompanied by an opinion. In 2019, 81 court hearings were held before the Burgas RC for provisional release. 39 persons deprived of liberty were released provisionally by a ruling of the Regional Court. 12 proposals for provisional release were made by the prison head to Burgas RC. 10 of them were granted.

In 2019, a total of 265 orders were issued to amend the regime to a more lenient one, to amend the regime to a stricter one or to reclassify to an open-type prison hostel. The regime of 125 persons deprived of liberty was amended to the next more lenient one, the regime of 2 persons deprived of liberty was amended to a stricter one, within the one set by the court initially. The type of prison of 47 persons deprived of liberty was amended from closed-type to open-type. With respect to 4 persons serving their punishment under a “special” regime set by the court initially, orders were issued to confirm the regime set.

The state of the buildings of Stroitel OTPH is deteriorating visibly. The canteen needs to be renovated while the sleeping rooms are small and do not meet the European requirements. There are plans for the prison hostel to be torn down completely and for a new one to be built in its place which will also make it possible to use the current unusable buildings.

The material and living conditions at Zhitarovo OTPH have improved significantly after the last NPM visit in 2018. The window and door frames of the entire hostel were changed. The bathroom underwent major renovations.

The sleeping rooms are damp and mouldy and need to be renovated. At the time of the visit, renovation of the canteen had started.

The NPM team recommended to the DGEP Director General to renovate the sleeping premises in this prison hostel.

By a letter of 15.01.2021, DGEP notes that “Overall renovation is planned at Stroitel OTPH with funding from the Norwegian Financial Mechanism and, in this way, it will be aligned to the European standards. The renovation works will begin in 2021. As regards Zhitarovo OTPH, overall renovations works of the living quarters are needed which will require in-depth analysis of the state of the buildings and the possibilities for renovation or overall reconstruction. A design project, bills of quantities and funding for them are needed in line with the instructions of the respective construction experts.”

Debelt Closed-Type Prison Hostel was opened in 2017; so far, this is one of the most modern closed-type penitentiary institutions. Its capacity is 450 persons deprived of liberty. On the day of the inspection, it housed 350 persons. Due to the insufficiency of open-type places and in order to avoid overcrowdedness, Debelt OTPH was also opened but it is located in the building of Debelt CTPH. The NPM again found lack of unrestricted access to the area of the hostel according to Article 71a of the EPDCA Implementing Regulations. In previous reports, the NPM recommended to the head of Burgas Prison to take the necessary measures to comply with the provision of Article 71a of the EPDCA Implementing Regulations at Debelt OTPH. Having found that this recommendation had not been implemented and in view of the assurance from DGEP about the upcoming renovation of Stroitel OTPH, the NPM recommended to the DGEP Director General that Debelt OTPH be closed down as there was no need for this prison hostel any more. If a DGEP assessment finds that Debelt OTPH should remain, the NPM recommends that the necessary measures be taken to comply with the provision of Article 71a of the EPDCA Implementing Regulations at this prison hostel.

There is a room for meetings with attorneys and a place for visits allowing for the necessary distance. There is an option for online visits which take place in the presence of a social activities worker.

The investigation detention facility functioning on the territory of Burgas Prison was opened in March 2015. After August 2016, the detention facility was transferred to the administrative supervision of the prison. There are 10 arrest cells with 36 places for persons charged and defendants

which meet the European requirements for detention space. On the day of the inspection, there were 51 detainees. The detention facility is constantly overcrowded which is the reason for the lack of a possibility to isolate persons for a 14-day quarantine upon first detention.

The check of the register of traumatic cases found one person with injuries after the move from the district department. The detention facility has a register of the use of force and auxiliary means, a register of urgent cases, a register of visits as well as a room for visits with attorneys.

B) Medical care

Currently there are no registered cases of detainees or persons deprived of liberty at Burgas Prison with a coronavirus infection. Anti-epidemic measures are implemented but they are not observed strictly in all sites inspected.

The inspection at the detention facility found no cells for new detainees for a 14-day quarantine as part of the anti-epidemic measures laid down by DGEP. Only at Debelt CTPH and Zhitovo OTPH was the temperature of the NPM team taken upon entry. Personal protection equipment is not used by all staff members. Conditions for the necessary distance during visits are created, individual masks are provided, disinfection is performed regularly. The NPM recommends strict observance of the anti-epidemic measures and systemic control on the part of DGEP.

The prison medical centre is staffed by: *ex officio* general practitioner doctor (for all persons deprived of liberty in the building, the prison hostels and the detention centre) with the following working hours: Tuesday and Thursday from 7:30 am till 10:00 am; a paramedic who also visits Zhitovo OTPH every Tuesday, and one nurse. There is a continuous vacancy for a doctor – medical centre manager. Debelt CTPH has a paramedic and a nurse. Stroitel OTPH (which is in close proximity to the prison) is serviced by the prison medical centre. The detainees at the detention facility (located in the prison) receive medical care from the prison medical centre. There is a dentist's office at the prison. It attends to persons from the building and the hostels following a schedule.

The medical centre has an in-patient section with two cells. One is in a poor hygienic and living state (dirty walls, peeling plaster, obsolete beds and containers). This cell, even though the other one was vacant and in a visibly better state, housed a person deprived of liberty discharged from the hospital a day before with: craniovascular disease, a state following prolonged coma. The person was bed-ridden, aware of the time and place but he was unable to get up and take care of himself. He was supported by an assistant deprived of liberty.

The inspection again found that the medical centre had not been fitted for use by persons deprived of liberty who are in a grave state or with disabilities. The NPM recommends renovation of the in-patient section of the medical centre and fitting the sanitary unit with appliances for persons deprived of liberty with disabilities.

The medical centre keeps the required records. It should be noted that the information from the initial examinations of the detainees is scarce. The initial examinations are carried out by the paramedic. A case was found of a person deprived of liberty with a long-term chronic illness which had not been recorded during the initial examination at the detention facility which, later, resulted in hospital treatment while the person was at prison. The NPM recommends full medical examinations upon admission of detainees to the detention facility in the prison.

During the interviews in the prison building, there was a person with a chronic illness: discopathy and herniated disks in the lumbar spine. At the time, he complained of waist pain, difficulties to get up and stand up for a long time. He asked to be released from morning checks. On

site, the medical centre provided us with information that the person deprived of liberty had seen a neurosurgeon who had recommended a planned surgery. He had undergone test: MRI and EMG. In this case, the NPM recommended one more discussion with the person deprived of liberty about his treatment and, if necessary, he could be referred to a specialised neurologic medical committee to be provided with auxiliary means to move.

During the interviews with the persons deprived of liberty at Stroitel OTPH, no materials complaints about the medical assistance were made.

During the interviews at Debelt CTPH, complaints were received about the insufficient medical care. A case was found of a person who had an operation of a dermoid cyst planned in February but he was not taken for such a treatment. In a written response from Burgas Prison in relation to the inspection, the NPM received information that the person had been treated conservatively due to the state of emergency in relation to COVID-19 and the process was under control.

In the case of another person deprived of liberty with a chronic cardiovascular disease, a cardiologist was consulted only once in 2018 upon his admission and, since then, there has been no consultation despite his insistence before the paramedic that the medicines no longer help him.

To improve the medical care of the persons at Debelt CTPH, the NPM recommends that a general practitioner doctor should make examinations at the hostel once a week; to this end, the NHIF should increase the working hours set. In relation to this recommendation, a response was received that the prison administration would talk to the NHIF.

The NPM recommends to the general practitioner doctor and the prison administration to attract medical specialists for periodic consultations at the prison – a practice at most prisons in the country. In relation to this recommendation, a response was received that attempts had been made to attract external medical specialists for examinations at the prison hostel but unsuccessfully.

PRISON – City of PLOVDIV and DETENTION FACILITY – City of SMOLYAN

Plovdiv Prison has two open-type prison hostels – Hebros and Smolyan.

A) Living conditions

On the day of inspection, an overall renovation of the prison building was underway under a project funded from the Norwegian Financial Mechanism to build a new open-type prison hostel.

The inspected sleeping premises comply with the required living space in view of the persons placed but they do not meet the requirements due to the dampness and mould even though light renovation works were carried out during the year. The inspection team received numerous complaints about cockroaches and bed-bugs.

The prison kitchen has been fully renovated but, during the inspection, the team found that cleanliness was not maintained as necessary and it was full of cockroaches everywhere.

The material and living conditions in the high security zone also fail to meet the European treatment requirements. The walls there are damp and mouldy; the team found cockroaches. The sleeping rooms have separate sanitary units.

The admission section observes the rule of 4 sq m of living space; the rooms have a separate sanitary unit. These rooms also do not meet the requirements due to the dampness and mould, the limited access to daylight; the rooms have concrete floors.

In 2019, the production facility of Prison Affairs Fund SE – territorial section in Plovdiv, provided work for an average of 129 persons deprived of liberty. The housing and housekeeping activities of the section – building and two hostels – provided work for 65 persons deprived of liberty. Under the form of work, as a service with labour force for external contractors, an average of 55 persons deprived of liberty were engaged.

Hebros OTPH is located across Plovdiv Prison (south from Aleksandar Stamboliiski Boulevard). This boulevard is quite busy and the crossing of pedestrians is very difficult. In this regard, the NPM recommended to the Mayor of Plovdiv Municipality to place a speed restriction (so called “sleeper”). By a letter registration No. 253/12.01.2021, the administration of Plovdiv Prison informed the Ombudsman that a letter had been sent to Plovdiv Municipality – South Section and to Plovdiv Regional MoI Department in June requesting the construction of artificial barriers in the said road section. A response from Transport Organisation and Control Municipal Enterprise is also appended stating that the horizontal road marking in the said road section would be renewed in the summer season of 2021.

The state of the buildings of Hebros OTPH is deteriorating. The hostel has two wings (barracks) to accommodate persons deprived of liberty, each of which with a separate sanitary unit. Still, the rooms do not have sufficient daylight and do not meet the European requirements. The team received information that a complete renovation of the prison hostel was planned for the following year. It is planned that the existing buildings will be torn down and a new prison hostel will be built.

The material and living conditions at Smolyan OTPH can be assessed as good. The NPM commends the high employment of the persons deprived of liberty.

Smolyan OTPH has also implemented and continues to apply an old idea of the NPM’s – the prison canteen and the place for visits to be located in the same place. According to the persons deprived of liberty as well as supervision and security staff, this makes the visit process much easier.

There is also a detention facility within Plovdiv Prison with a capacity of 180 detainees. The detention facility has three sections for outdoor stay, two rooms for meetings with attorneys and a visit hall. It should be noted that this detention facility and the one in Shumen are the only ones so far to have rooms for targeted activities with the detainees. The detention rooms meet the European treatments requirements: there is a direct access to daylight, sufficient space based on 4 sq m per person and a separate sanitary unit in every room. During its previous visit in 2018, the NPM recommended that a partition should be built for the sanitary unit in the detention rooms up to the ceiling. As of the date of the inspection, this recommendation has been fulfilled partially and, hence, it is necessary not to place persons in some of the detention rooms.

The detention facility in Smolyan is located in the same building as Smolyan PH. The detention facility has a capacity of 21 persons. There are 7 cells with three beds each. The floor of the detention facility also houses 2 rooms for visits, a bathroom, interrogation rooms and a medical office. The NPM assess the material and living condition at the detention facility as good. On the day of the inspection, there were 6 detainees. During its visit in 2019, the team received information that the detention facility would be closed down in 2020 and persons on the territory of Smolyan Region would be detained in the detention facility in Plovdiv. The NPM found the idea inappropriate due to reasons described in detail in the report from the previous year. The decision to close down the detention facility was later cancelled.

B) Medical care

So far, Plovdiv Prison has had one registered case of a person deprived of liberty with a coronavirus infection. He received out-patient care. The group he was placed in was under quarantine. Anti-epidemic measures are implemented but they are not observed strictly at all inspected sites.

The medical services at Plovdiv Prison, Hebros OTH and the detention facility in Smolyan are provided from the medical centre in the prison which is staffed by a doctor assigned *ex officio* by the NHIF. The medical centre is also staffed by two medical assistants – persons deprived of liberty. The distance from Plovdiv Prison to the detention facility in Smolyan makes it hard to provide medical help to the detainees and, in practice, the detention facility staff are left on their own. During the inspection, the NPM found that a doctor from the prison had visited the detention facility in Smolyan only once the previous month. Smolyan OTH at Plovdiv Prison is located in Smolyan with a schedule for a doctor three times a week and even though the detention facility is in the same building, so far the prison administration has not reached agreement for the hostel doctor to cover the detention facility too.

During the NPM inspection, the medical centre in Plovdiv Prison was undergoing renovation. The doctor shared that she found it hard to prepare the reference information and keep the medical records because they took up much of the time for medical work. The doctor enquired of DGEP about the appointment of a nurse which the NPM supports. The inspection found that the medical records were neglected. When the register of traumatic damage was requested, it was provided by a medical assistant – person deprived of liberty who was in the medical office during the inspection. The NPM reminded the medical staff that the medical assistants – persons deprived of liberty should not have access to the medical records at the centre or to medicines and should not be at the medical office without being busy. No shortage of medicines or consumables for the work of the medical centre or of protection equipment and disinfectants for the anti-epidemic measures at the prison was found. The in-patient cells of the medical centre accommodated one person deprived of liberty with pancreatitis, in a satisfactory overall condition.

The NPM interviewed persons deprived of liberty at the prison in relation to the medical help and received the following complaints: a person deprived of liberty said that, in some cases, medicines were given by the medical assistants and not following an examination by the doctor. During enquiry upon this information at the medical centre, the doctor definitely rejected this claim before the NPM.

A group of persons deprived of liberty with type II diabetes said that they were deprived of dietary food and were given the general food. The NPM found that the food of these persons deprived of liberty was indeed prepared as per the general menu and diet No. 9 which made it possible to disregard the dietary needs of people with diabetes. The NPM recommended that the food at the prison canteen should be prepared based on the menus as per the 2015 DGEP order on diets.

Complaints were also received that the persons deprived of liberty found it hard to see the doctor, she was often absent and did not pay attention. The doctor works half-day shifts, she accompanies persons deprived of liberty upon moves to medical institutions, she is also assigned to provide care at the detention facility in Smolyan and the prison is often left without a medical specialist. The persons deprived of liberty do not have timely access to medical help. The NPM recommends that one more medical specialist be appointed at the medical centre of Plovdiv Prison. In relation to this finding and recommendation, the NPM received a response from the prison doctor that she worked half-day only twice a week and that two medical specialists had worked at the medical centre before her and she supported the recommendation that a second medical specialist should be appointed.

During the inspection at Hebros OTH, the persons deprived of liberty did not voice complaints about the medical care. The NPM met with a person deprived of liberty with 100% blindness evidenced by a life-long expert decision. He has to serve a significant portion of his punishment. The NPM explained to him that he could submit a request to the President of the Republic of Bulgaria for pardon. The NPM talked to the Social Work and Educational Activities Inspector in relation to the assistance with documents if the person deprived of liberty should decide to lodge a request for pardon and in relation to assessing the possibility for provisions release.

During the inspection at the detention facility in Smolyan, which has not had a medical specialist for more than year, there was a detainee with a mental illness. The person was under psychomotor affect – shouting, singing, hitting the door at night, using the cell as a toilet. A consultation with a psychiatrist from Smolyan MHC was performed. The NPM is of the opinion that, at the time, the detainee's state required specialised medical care and helped to place the detainee for treatment after talking to the psychiatrist who had prescribed the treatment. It mediated between DGEP, Smolyan detention facility and the supervising prosecutor to place the detainee at the Lovech hospital for persons deprived of liberty.

The medical care at Plovdiv detention facility is provided by a doctor and a paramedic. The medical records are kept in line with the requirements. The register of traumatic damage indicates 8 cases of physical violence on the part of police officers during detention. The cases were reported. The inspection of the detainees in the cells found that the bed linen of some detainees was dirty. According to the detainees, it is washed once a month. In this regard, the NPM recommended that a register be kept of the washing of the bed linen in the detention facility in order to keep track. We did not receive any complaints from the detainees about the medical care at the detention facility.

In conclusion, the Plovdiv detention facility with 200 places is serviced by a doctor and a paramedic, Plovdiv Prison, Hebros OTH and Smolyan detention facility with close to 600 places are serviced by one doctor who needs to travel for hours to provide care for the detention facility.

If it is impossible to ensure one more medical specialist for the work of the medical centre at the prison, the NPM recommends that the work of the medical service of Plovdiv detention facility and the medical centre in Plovdiv Prison be combined.

Anti-epidemic measures and standards

In relation to the state of emergency instituted by a decision of the National Assembly on 13 March 2020 and in order to curb the COVID-19 infection at places for deprivation of liberty, an order of the DGEP Director General set out a number of anti-epidemic measures and restrictions related to: suspension of visits and food parcels; suspension of the leave of persons deprived of liberty; work at external sites.

After the end of the state of emergency on 13.05.2020, DGEP removed these restrictions of the rights of the persons deprived of liberty.

The NPM notes that the Ministry of Justice took timely action in relation to the COVID-19 pandemic. By order No. LS-04-102/26.02.2020, the Deputy Minister of Justice instructed that timely action should be taken to limit the dissemination of COVID-19 at places for deprivation of liberty and among DGEP staff. By an order of the DGEP Director General of 13.03.2020, an Operational Command Centre was set up to provide instructions and organise the implementation of the anti-epidemic measures as per the Ministry of Health orders. The inspections found that the anti-epidemic measures were implemented to different extents at prisons and detention facilities. For example: In practice, Burgas detention facility cannot quarantine new persons. PCR tests were not used as an

alternative to quarantine. The NPM recommended to the DGEP a flexible approach of implementation of the anti-epidemic measures in view of the objective abilities of prisons and detention centres as well as systemic control.

Over the year, complaints were received about the lack of individual masks at prisons and about people sick with COVID-19 who were neglected. The NPM inspections found that prisons and detention facilities had ensured individual protection equipment and disinfectants for the persons deprived of liberty upon move, visit, exit for work.

During the reporting period, there were 53 persons deprived of liberty registered with COVID-19 in the penitentiary system. Three cases ended with deaths. 266 PCR (rapid antigen tests) were carried out. According to DGEP, pursuant to Order No. RD-01-619/23.10.20 of the Ministry of Health, the hospitals for persons deprived of liberty at Sofia Prison and Lovech Prison set COVID beds (a ward for treatment and monitoring persons deprived of liberty without complications).

Upon an inspection at the Lovech hospital for persons deprived of liberty, the NPM found 15 beds for coronavirus infection as of 01.12.2020. It treated only four persons deprived of liberty from Lovech Prison; persons deprived of liberty from other prisons are not admitted. As of 21.10.2020, the hospital for persons deprived of liberty at Sofia Prison launched a COVID section with 16 beds for treatment of persons deprived of liberty with COVID-19 and 36 beds for quarantine (mainly persons deprived of liberty upon returning from abroad). Seventeen persons deprived of liberty with COVID-19 were treated only from Sofia Prison and the detention facility.

It is obvious that in the period of heightened COVID-19 illness rates of the population in the country and unprecedented pressure on the hospitals from the civil system, treatment for persons deprived of liberty with COVID-19 was sought at external medical institutions given that possibilities were available for timely hospitalisation at the hospitals of the penitentiary system. Note should also be taken of the circumstance that when persons deprived of liberty are admitted at external hospitals, they are accompanied by supervision and security staff and, in such cases, the security staff are in an adverse environment. For example: With respect to a person deprived of liberty from Plovdiv, almost a day was spent to find a hospital to admit him for treatment. In the same period, there were vacant COVID beds at the hospital for persons deprived of liberty at Sofia Prison. The hospital has an ambulance and the person could have been timely admitted. The NPM is of the opinion that the COVID beds set up in the penitentiary system should be accessible to the persons deprived of liberty at all prisons. The NPM made such a recommendation to the Ministry of Justice. The inspection at the hospital for persons deprived of liberty in Sofia also found that the heating on the 5th floor was not good, under the admissible levels for a medical institution. The NPM made an oral and written recommendation to the head of Sofia Prison to provide heating devices for the persons placed on this floor of the hospital during the winter period. The recommendation was not implemented timely and the persons deprived of liberty at the hospital went on a hunger strike. Later, the prison administration provided heating devices for the persons deprived of liberty on the 5th floor of the hospital.

PROTECTION OF PERSONS DETAINED AT ACCOMMODATION CENTRES WITH THE MINISTRY OF THE INTERIOR

Development of the regulatory framework and government policy

In 2020, the NPM inspected thirteen premises for accommodation of detainees in the structures of the Ministry of the Interior, including structures of the Sofia Directorate of the Interior.

MAIN RECOMMENDATIONS

- *Develop a specific policy to overcome the problem with overcrowdedness, lack of access to ventilation and natural light;*
- *Improve the detainees' awareness about their rights;*
- *Ensure access to legal aid for detainees;*
- *Improve the provisions for the need for medical help when unresponsive persons are detained (temporarily lacking legal capacity) within the meaning of Article 21 (1) of Instruction No. 1821z-78 of 2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior.*

The NPM found repeated deficiencies in the system of 24-hour detention: overcrowdedness of the rooms; no service rooms; lack of access to ventilation and natural light; awareness of the detainees about their rights; ensuring access to legal aid.

In view of the mass protests in the country, the NPM received complaints and signals from citizens and non-governmental organisations with information about serious violations of the rights of protesters detained by the police in Sofia on 10.07.2020 and 02.09.2020. There are indications that with respect to detainees at 1, 2 and 3 Police District Departments – Sofia Directorate of the Interior there was failure to respect a fundamental guarantee of protection – ensuring access to a lawyer, including in cases when lawyers engaged by relatives of the detainees appeared at the police and demanded to see their clients. It is noted that the conditions at the detention premises were unsatisfactory and they were overcrowded. There are also claims that the police authorities detained people who had not disturbed the public order.

The media published a series of images of violence and unauthorised use of force against protesters and reporters. In addition, media publications show police officers carrying brass knuckles and wearing stickers on their uniforms in English reading

“One hit. One kill. My decision. No remorse.” The use of brass knuckles by police officers is inadmissible as per the requirement of Article 85 of the Ministry of the Interior Act which makes an exhaustive list of all auxiliary means and the cases in which they are **absolutely necessary**.

In this regard and pursuant to Order RD-0854/13.07.2020 of the Ombudsman of the Republic of Bulgaria, a team of the institution carried out inspections at 1 and 3 District Departments – Sofia Directorate of the Interior.

At 3 District Department – Sofia Directorate of the Interior, the inspection of the documents related to a victim found that after the person's detention on 11.07.2020, he was visited by a team of Sofia Urgent Medical Help Centre. Upon the examination at 00:20 am, the medical staff noted in the record that the person had suffered beating. Still, he was moved to a medical institution only in the morning (at about 9:00 am) and was then released at 8:40 pm. The team found a discrepancy between

the information in the register of detainees that the person had been in a good state upon detention and the conclusion about the beating from the medical record.

At 1 Police District Department – Sofia Directorate of the Interior, the inspection of the documents about one detainee found that he had refused to sign the declaration about his rights. Upon the medical examination during this detention, it was noted that he was visibly not sober and with bruises on this head. After a subsequent medical examination, he was moved to the Neurosurgery Ward of Pirogov University Multi-Profile Hospital for Active Treatment and diagnosed with brain concussion. He was visited by an Ombudsman team at the hospital on 13.07.2020. During the conversation, he said that he did not remember anything about what had happened, the refusal to sign the declaration about his rights and the initial medical examination. The detainee said that he had obtained a certificate of this trauma at the hospital.

In relation to specific complaints from citizens about detainees at 2 Police District Department – Sofia Directorate of the Interior and pursuant to Order RD-08-80/03.09.2020 of the Ombudsman of the Republic of Bulgaria, on 04.09.2020 an NPM team inspected the detention premises and the detention documentation at 2 DD – SDoI. It was found that two detainees had declared the desire to be visited by lawyers chosen by them but the lawyers had not been allowed in timely which had hampered their right to protection. No such meeting is noted in the register of detainees but, according to staff of 2 DD – SDoI, they were visited by a lawyer several hours after the detention. The register notes that the persons were visited by a relative. Omissions were found in the preparation of the order to detain a person who refused to sign it but the refusal was not certified by a signature of a witness, as required under Article 15 (2) of Instruction No. 8121z-78 of 24 January 2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior.

In view of the above and pursuant to Article 19 (1) (4) of the Ombudsman Act, the Ombudsman sent a recommendation to the Minister of the Interior and the Director of Sofia Directorate of the Interior requesting an in-depth and impartial inquiry and effective investigation in keeping with the constitutional and European standards of human rights of the said cases of serious doubts of unauthorised use of force by police officers during detention.

The Ombudsman insists on receiving responses from the Minister of the Interior about the reasons why lawyers of detainees were not allowed to meet with them timely. The Ombudsman also insists on action to terminate the practice of placing threatening messages on the uniforms of MoI staff.

In the recommendation, the Ombudsman adds that media publications and images show that some police officers carried brass knuckles and had stickers on their uniforms in English reading “One hit. One kill. My decision. No remorse.” The Ombudsman notes that such threatening messages on the uniforms of MoI staff aim to frighten the citizens and is contrary to the ethical norms and fundamental principles in the work of the MoI laid down in Article 3 of the MoI Act. According to the Ombudsman, the use of brass knuckles by police officers is inadmissible under the MoI Act which lists exhaustively the types of auxiliary means. Furthermore, the Ombudsman voices concern about reports from citizens that the police officers did not have individual ID numbers.

The Ombudsman expressly emphasises the need to examine if there is proportionality in the use of physical force and auxiliary means by the law-enforcement authorities as a fundamental principle set out in international acts, the Bulgarian law and the case-law of the European Court of Human Rights in Strasbourg. In line with this principle, any force used must correspond strictly to the attaining a legitimate aim.

In its case-law, the Court in Strasbourg has repeatedly stated that the force used by law-enforcement authorities does not correspond to the specific legitimate aim pursued. In this sense, for

example, is the judgment in *Rehbock v. Slovenia* in which the police explained the applicant's bruises with resistance during the arrest. Assessing the specific situation, the Court rules that the force used is excessive and unjustified and the authorities did not manage to demonstrate convincing arguments why the bruises had been inflicted, taking into account that the police action was planned and, therefore, the risk should have been assessed, the police outnumbered physically the persons present and the victim did not use a weapon against the police officers.

Finally, the Ombudsman again recommends that the MoI leadership take action to improve the material conditions at the premises for detention which are not maintained and have poor hygiene.

By virtue of letter No. 5 13000-37281/03.08.2020, the Ombudsman was informed that an order of the Director of the Sofia Directorate of the Interior sets out an inspection under Article 205 (2) of the MoI Act. After its completion, the committee found exceeding of official powers on the part of police officers and violations of the citizens' fundamental rights in the use of physical force exceeding the limits set. The materials from the inspection were sent to the Sofia District Prosecutor's Office in view of competence.

Results of NPM inspections

DISTRICT DEPARTMENT – City of HASKOVO AT THE REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, HASKOVO

During the visit at Haskovo DD, the NPM team found the following premises for detention: 2 rooms for detention of adults – men, 1 for women, 1 for MoI and Ministry of Defence staff, 1 for minors and 1 isolation cell. They are equipped with beds and tables fixed to the floor. The NPM found poor hygiene in the detention premises.

The detention room for minors does not meet the requirements of Instruction No. 8121z-78 of 24 January 2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior (hereinafter referred to as “the Instruction”). It has the same furniture as the detention room for adults.

The District Department has the necessary service rooms – two rooms for visits and for meetings with lawyers, 1 interrogation room and 1 room for admission and processing of detention documentation where the detainees' personal items are kept in metal cabinets. There is a common sanitary unit which is immediately next to the detention premises.

The NPM found insufficient access to natural light due to the location of the detention premises which are on the ground floor of the District Department.

The corridor and all detention rooms are under constant video surveillance. There is also constant physical security in the course of detention of persons.

During detention, every person is provided with food in line with Article 43 and Article 44 of the Instruction. The time of feeding the detainees is laid down in the Regulations for the Internal Order in the Premises for Detainees at Haskovo DD. The food given to the detainees is purchased at shops every day.

An information board in a visible and accessible place in the corridor posts the following: an excerpt with the rights of detainees, Regulations for the Internal Order, up-to-date list of ex officio defence lawyers at Haskovo Bar Council.

The NPM team carried out a random inspection and checked randomly chosen detention orders, protocols of personal searches and declarations and no violations were found.

The NPM inspected the following documentation: register of detainees; register of medical examinations; register of cash seized, received and used from/for detainees, and items and food received and no omissions in the documentation were found.

Medical care:

Medical care for the detainees at Haskovo DD is provided from the Haskovo Urgent Medical Help Centre. The inspection team found that the medical examinations were carried out in line with Article 21 of the Instruction. The examinations and findings are recorded in a register of medical examinations. During the inspection, the detention premises housed one person with a head injury which was timely dealt with at the Surgery Ward of Haskovo MPHAC. In a conversation, he did not voice complaints about the treatment or medical help provided.

DISTRICT DEPARTMENT – Town of HARMANLI AT THE REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, HASKOVO

During the inspection, the NPM team found that the recommendations from previous visits for overall reconstruction and renovation of the detention premises at Harmanli DD in line with the standards laid down in the Instruction had not been fulfilled. The NPM again found 6 rooms with two bunk beds each. The rooms are allocated as follows: 1 for women, 1 for MoI and Ministry of Defence staff, 1 for persons placed under the Combating Petty Hooliganism Decree, and the other 3 for men. The furniture has been complemented with a damage-proof small table. The floor has two levels and is made of wooden planks which makes it hard to clean. The area of the rooms is very small. The rooms are without windows. There is very limited access to daylight or ventilation. The team found also that the room for minor and underage persons does not comply with the Instruction.

The detention premises are neglected and the sanitary unit is in a very bad condition.

It was again found that there was no video surveillance of the detention premises; such is available only in the corridor and is accompanied by physical security.

The District Department does not have the necessary number of service rooms as per the Instruction and the same room is used for all purposes under Article 5 (1) (3) of the Instruction which does not meet the requirements. There were no detainees at the detention premises during the inspection.

Food is provided at the Harmanli DPD which is purchased from shops in line with the budget and the food-day allocations.

The Regulations for the Internal Order approved by the head of Harmanli DD are placed in an accessible place. The NPM team found that there was no up-to-date list of *ex officio* lawyers. The NPM team did not find omissions in the drawing up of detention orders and rights declarations.

The following documentation was checked during the inspection: register of detainees and register of cash seized, received and used from/for detainees, and items and food received. The documentation is maintained in line with Article 87 of the Instruction.

Medical care:

All detainees are given the opportunity to be examined by a doctor when the detainee wishes so or when the detainee's health situation makes it necessary. A notebook is used to mark the name of the medical specialist and the result of the clinical examination as well as the refusals for medical examinations. The inspection showed that, in most cases, the detainees were examined upon detention and the examinations were performed by Harmanli Urgent Medical Help Centre.

FIRST AND SECOND DISTRICT POLICE DEPARTMENTS – City of PERNIK AT THE REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, PERNIK

The NPM inspection found that the material and living conditions at the First and Second District Departments, Pernik were in line and complied with the requirements set out in Instruction No. 8121z-78 of 14 January 2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior. The First DD has 6 detention premises (3 for men, 1 for women, 1 for minors, 1 for MoI and Ministry of Defence staff); the Second DD has 4 detention premises (2 for men, 1 for women and 1 for minors). The premises are well kept and with a good hygiene. All service rooms as per the Instruction are available. There are separate sanitary units for men and women.

Pursuant to the provisions of Article 42 and Article 43 of the Instruction, during detention every person is provided with food in line with norms set out in an act of the Minister of the Interior. The NPM found that the detainees were provided uncooked food (croissants) and water. It is a frequent practice for the detainees' relatives to buy food for them.

During the inspection, the NPM team found that the persons were made aware of their fundamental rights upon detention as per the Instruction through the arrest warrants and declarations. A random check of warrants, search records and declarations found that they had the required elements.

The Regulations for the Internal Order are posted in visible places at the inspected district departments. An up-to-date list of *ex officio* lawyers maintained and provided by the bar council was available only at the Second District Police Department. Such a list was not available at the First District Department and the lack was explained with the failure of the Pernik Bar Council to send the necessary information, a problem noted for two years in a row (2019 and 2020). In relation to this omission, the NPM reiterates that the right to defence is a fundamental human right and human rights standard laid down in Article 47 of the Charter of Fundamental Rights of the EU, Article 6 of the European Convention on Human Rights and Fundamental Freedoms, and the national legislation. Pursuant to Article 74 (2) (6) (b) of the MoI Act, detainees have the right to attorney defence as of the time of detention. The equal access to lawyers is an important procedural guarantee for the protection of the detainees' rights and must be guaranteed effectively by the institutions. In view of the above, the District Department leadership need to take urgent action and contact the Pernik Bar Council to obtain a list of *ex officio* lawyers which will be posted in a visible place at the First District Department, Pernik.

The NPM team was provided with the following documentation which is mandatory as per the Instruction: register of detainees; register of cash seized, received and used from/for detainees, and items and food received; register of inspections. The NPM did not find any serious omissions in the documentation under Article 87 of the Instruction.

Medical care:

Upon detention, persons are provided with the possibility to use medical help. This is reflected in the declarations filled out by detainees upon detention. Medical help is also provided upon the decision of the staff or when the health situation requires it.

During the inspection, the NPM found that the medical help was provided by the Pernik Urgent Medical Help Centre which makes visits on site if called.

After the inspections at the above sites, the NPM issued the following recommendations to the Minister of the Interior:

1. Take measures for better disinfection of the detention premises at Haskovo DD;
2. Ensure that the detention premises for minors at Haskovo DD comply with the Instruction;
3. Carry out overall reconstruction and renovation of the detention premises at Harmanli DD;
4. Set up the necessary number of service rooms with the respective equipment at Harmanli DD;
5. Ensure constant video surveillance of detainees in the detention premises of Harmanli DD;
6. Place an up-to-date list of *ex officio* lawyers at Harmanli DD;
7. Contact immediately Pernik Bar Council in order to organise the obtaining of an up-to-date list of *ex officio* lawyers by the First District Department, Pernik, which will be posted in a visible place.

By letter registration No. 812100-936/21.01.2021, the MoI informed the Ombudsman about the action taken in relation to the recommendations as follows:

1.1. By letter No. 313000-232/07.01.2021, Pernik Bar Council provided Pernik RMoID with an up-to-date list of lawyers from the council and *ex officio* defence attorneys. Pursuant to Article 15 (6) of the Instruction, the list is posted in a visible place in the detention premises. Such a recommendation for the posting of an up-to-date list of *ex officio* lawyers at Harmanli DD **has already been implemented** and an organisation has been set for the systemic update of the list of *ex officio* lawyers;

1.2. As regards the recommendations for better disinfection of the detention premises at Haskovo DD, ensuring compliance of the detention premises for minors with the Instruction and compliance of the detention premises at Harmanli DD, it is noted that better disinfection has already provided at the detention premises at Haskovo DD. A checklist of the disinfections is kept and officials are assigned to exercise control and make inspections. Haskovo RMoID has taken action to hold a procedure under the Public Procurement Act in 2021. When a contract is concluded, the construction and assembly works will be performed and **the recommendation about the detention premises for minors at Haskovo DD and the detention premises at Harmanli DD will be fulfilled.**

DISTRICT POLICE DEPARTMENT – Town of CHIRPAN AT REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, STARA ZAGORA

On the day of the inspection, there was one detainee. The place for 24-hour detention has six rooms, a room for police protection, a room for minors, placement under the Combating Petty Hooliganism Decree and meetings with lawyers. These rooms are assigned a common sanitary unit and a separate one has been built only for minors. There is a list of *ex officio* lawyers and Regulations for the Internal Order. The register of detainees shows that there have been 55 persons detained since the beginning of the year.

FIRST AND SECOND DISTRICT POLICE DEPARTMENT – City of STARA ZAGORA AT THE REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, STARA ZAGORA

During the NPM visit, there was one detainee at the First DD. There are two rooms for 24-hour detention of adults which were fully renovated in 2015. The room where minors are placed does not meet the European standards and needs an overall renovation. The District Department has a room for meetings with lawyers. The register of detainees shows that there have been 218 persons detained since the beginning of the year.

There were two detainees at the Second DD. The District Department has six rooms for 24-hour detention, a separate sanitary unit, rooms for police protection and a room for meetings with lawyers. There is a list of *ex officio* lawyers and Regulations for the Internal Order. The rooms have two beds each but the light is artificial (no access of daylight) and, therefore, they do not meet the requirements for light and fresh air. The register of detainees shows that there have been 317 persons detained since the beginning of the year.

Medical care:

Before placement in 24-hour detention, persons are given the possibility to be examined by a doctor. The medical examination or the refusal to have one is recorded in the register of detainees. Every file is appended with a certificate from the Urgent Medical Help Centre where the detainees are usually examined. The NPM noticed that a significant part of the people were detained after using drugs. In such a condition, a detainee is inadequate and unable to make an informed choice about their need for medical help and they are usually not examined. It is not clear when or how the necessary documents are filled out upon detention. During the inspection at First DD, there was one detainee – a woman who had been taken off the Sofia – Burgas bus due to complaints from the passengers about her aggressive behaviour. She had probably used drugs during the trip. In the cell, she was thrashing, hitting and kicking the door, shouting to be set free. The District Department did not call for a doctor to control her agitation because she had not wanted one.

Pursuant to Article 21 (1) of Instruction No. 1821z-78 of 2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior, a detainee undergoes a medical examination if they wish to or when their health situation requires it.

After the completion of these inspections, the NPM recommended to the Minister of the Interior to:

1. Clarify the need for medical help upon detention of persons who are unresponsive (temporary lack of legal capacity) within the meaning of Article 21 (1) of Instruction No. 1821z-78 of

2015 on the procedure for detention, equipping premises for detainees and the order in them at the Ministry of the Interior;

2. Renovate the detention premises for minors at First DD at Stara Zagora RMoID.

By letter registration No. 812100-936/21.01.2021, the MoI informed the Ombudsman about the action taken in relation to the recommendations as follows:

1.1. Instructions have been issued that unresponsive persons (temporarily lacking legal capacity) are to undergo a medical examination both before their placement in the DD detention premises and before their release;

2.1. A request was prepared for renovation of the detention premises for minors at First DD, Stara Zagora, and bringing it in compliance with the requirements of Instruction No. 8121z-78/24.01.2015.

FIFTH DISTRICT POLICE DEPARTMENT AT THE REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, BURGAS

There are four District Police Departments on the territory of Burgas. Only the Fifth DD has a room for 24-hour detention.

There are four detention rooms but only two are used in accordance with their purpose because the other two are used for storage. There is a detention room for women and a room for meetings with lawyers. The maximum number of people who could be placed in one cell in view of the required living space is four. There is bed linen provided to the persons upon detention.

The light at the inspected rooms does not meet the requirements for daylight because the windows are matted. Light is provided solely through artificial lighting. There is a possibility for the rooms to be aired. During the inspection, the register of detainees showed that the total number of persons from the start of the year had been 825 while, according to the staff, approximately 1,000 persons were detained annually.

There is a paramedic working at the detention facility whose working hours are from 8:00 am to 5:00 pm. The Urgent Medical Help Centre is used for the rest of the time. There is a medical office. On the day of the inspection, there was one detainee. At the time, he was agitated and aggressive; he had refused a medical examination. In view of the provision of Article 21 (1) of Instruction 1821z-78 of 2015, the medical specialist considered that he could be detained for 24 hours. Persons are detained upon a medical opinion.

The NPM recommended to the Minister of the Interior to ensure a possibility to provide daylight in the premises for 24-hour detention.

By letter registration No. 812100-936/21.01.2021, the MoI informed the Ombudsman that an enquiry had been carried out in relation to the recommendation and it had found that the window panes had regular light transmittance and were not matted, as noted by the NPM team. **The matter will be examined during inspections in 2021.**

FIRST AND SECOND DISTRICT POLICE DEPARTMENTS – City of PLOVDIV AT THE REGIONAL DIRECTORATE OF THE MINISTRY OF THE INTERIOR, PLOVDIV

There are 6 District Police Departments on the territory of Plovdiv. Each of them has rooms for 24-hour detention. Police protection is provided in the territory of the Third DPD at Plovdiv RMoID where the Centre for Temporary Placement of Minor and Underage Persons is also located.

On the day of the inspection at the First DPD at Plovdiv RMoID, there were 4 detainees, including one woman. This District Department has three arrest rooms. There are rooms for meetings with lawyers. The detainees are provided with bed linen upon placement in the respective room. There is a separate sanitary unit used only by detainees. The District Department covers a wide area and it is constantly busy. The register of detainees shows that 353 persons have been detained since the beginning of the year.

The Second District Police Department has 3 arrest rooms. On the day of the inspection, there were 3 detainees. One room does not have access to direct daylight or fresh air. There is a separate sanitary unit.

The medical examinations at places for 24-hour detention at DPD at Plovdiv RMoID are performed by the Plovdiv Urgent Medical Help Centre after a detainee has provided consent in writing. The problem remains with the detention of persons under the influence of drugs and the extent to which they can adequately declare their desire for a medical examination.

Anti-epidemic measures and standards

At all inspected DPD, it was found that the anti-epidemic measures laid down by the Ministry of Health had been implemented and were observed.

LEGAL FRAMEWORK

OMBUDSMAN ACT

Chapter four "a".

NATIONAL PREVENTIVE MECHANISM (NEW – SG 29/12, IN FORCE FROM 11.05.2012)

Art. 28a. (new – SG 29/12, in force from 11.05.2012) (1) The competences of the ombudsman as a National Preventive Mechanism shall concern the places with persons deprived of liberty, or detained or accomodated pursuant to an act or with the consent of a state authority, which cannot be left at their will, for the purpose of protection of such persons from torture or other forms of cruel, inhuman or degrading treatment or punishment.

(2) The ombudsman shall have the right to:

1. access without advance notification at any time to all places for detention referred to in Para 1 and their sites and facilities;
2. access to all information concerning the number of persons deprived of their liberty in places of detention as defined in Para 1, as well as the number of places and their location;
3. choose the places referred to in Para 1 he wants to visit and the persons he wants to interview;
4. have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the ombudsman as a national preventive mechanism believes may supply relevant information;
5. access to all information referring to the treatment of the persons referred to in Para 1 as well as their conditions of detention;
6. request information from officials of the visited place for detention, to interview them, and to carry out private interviews with any other person on the territory of the visited site;
7. organise medicinal checks of the persons with their consent.

(3) The employees and officials in the places referred to in Para 1 shall be obliged to render assistance and provide the required information to the ombudsman.

(4) (New – SG 20/18) The Ombudsman shall be notified in the preparation of drafts of normative acts which affect his powers as a national preventive mechanism.

Art. 28b. (new – SG 29/12, in force from 11.05.2012) (1) No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the ombudsman as a National Preventive Mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

(2) Confidential information collected by the ombudsman as a National Preventive Mechanism shall be published. No personal data shall be published without the express consent of the person concerned.

Art. 28c. (new – SG 29/12, in force from 11.05.2012) The ombudsman as a National Preventive Mechanism may assign in an order his functions under Art. 28a, fully or partially, to officials of his administration.

Art. 28d. (new – SG 29/12, in force from 11.05.2012) (1) Following every visit the ombudsman shall draw up a report, which may contain recommendations and proposals for improvement of the conditions at the places referred to in Art. 28a, the treatment of the persons therein, and also for the purpose of preventing the torture or other forms of cruel, inhuman or degrading treatment or punishment.

(2) The report shall be submitted to the competent authority, which, within one month, shall notify the ombudsman of the actions taken to meet the recommendations.

(3) The ombudsman shall publish also annual reports related to his activity as a National Preventive Mechanism in compliance with the requirement of Art. 28b, Para 2.

Art. 28e. (new – SG 29/12, in force from 11.05.2012) The ombudsman as a National Preventive Mechanism shall cooperate with the competent authorities and mechanisms of the United Nations, civil associations, and international, regional and national organisations, whose corporate purpose includes the protection of persons from torture or other forms of cruel, inhuman or degrading treatment or punishment.

RULES OF PROCEDURE OF THE OMBUDSMAN INSTITUTION

In force as of 18 September 2012.

Adopted by a decision of the National Assembly on 4 September 2012.

Promulgated SG no. 71 of 18 September 2012

Section V.

National Preventive Mechanism

Article 26. (1) In acting as National Preventive Mechanism, the Ombudsman shall visit the places of detention referred to in Article 28a, para 1 of the Ombudsman Act and shall review complaints and signals from persons detained therein.

(2) Visits under paragraph 1 may be planned or ad hoc.

(3) The Ombudsman shall approve a schedule of visits in places of detention by 31 January every year. The schedule shall be published on the website of the Ombudsman.

Article 27. (1) Visits in places of detention shall be made by at least two servants of the Ombudsman authorized by an order.

(2) The visits shall be conducted following a methodology approved by the Ombudsman.

(3) Servants under paragraph 1 shall make themselves known by a service card and order issued by the Ombudsman authorizing the visit.

(4) Servants under paragraph 1 shall not disclose information of which they become aware in the course of the visits or personal data of the detained persons.

Article 28. (1) In case of planned visits, the Ombudsman shall notify the head of the detention place not later than 7 days prior to the visit.

(2) The notification contains the names of the authorized servants; the date of the planned visit; a list of documents that the servants would like to inspect; and other information where appropriate.

(3) The head of the detention place shall inform the persons detained or accommodated therein as well as his or her officers about the pending visit in an appropriate manner.

Article 29. Ad hoc visits shall be made without prior notification upon the Ombudsman's discretion, for example following a signal or in order to check progress on his recommendations.

Article 30. (1) During visits authorized servants monitor how detained persons are treated; protection measures; material conditions; access to medical services; contacts with the outside world; the administration and funding of the detention places as well as other conditions and circumstances related to the prevention of torture and other forms of cruel, inhuman or degrading treatment of the persons detained or accommodated therein.

(2) During visits servants under paragraph 1 shall be entitled to the following:

1. free access at any time to all facilities in the places of detention and possibility to test the equipment provided to the persons detained or accommodated therein;
2. carry out personal talks with the persons detained or accommodated therein;
3. organize medical examinations of the persons detained or accommodated therein with their consent;
4. access to all information and documentation related to the treatment of the persons and the conditions under paragraph 1;
5. require information and conduct meetings with the officers in the places of detention and with other persons at the territory of the inspected detention place;
6. receive complaints and signals that are entered in the register under the terms of Section IV.

(3) During visits the servants under paragraph 1 shall be entitled to use camera, voice and video recording devices, noise/temperature/humidity measurement equipment as well as other measurement devices necessary for the purpose of the visits.

(4) For the purpose of conducting the examinations referred to in Article 28a, para 2, item 7 of the Ombudsman Act, the Ombudsman may use the service of independent medical experts who have the rights and duties of the servants under paragraph 1.

(5) Officials and employees in the places of detention must assist the authorized servants of the Ombudsman, ensure access and provide required information.

Article 31. (1) Within 14 days after the visit the authorized servants shall draw up a report stating their findings and making recommendations. The report shall be signed by the Ombudsman.

(2) The report under paragraph 1 shall be sent to the head of the detention place and the respective competent body.

(3) The persons and bodies under paragraph 2 shall inform the Ombudsman in writing within one month about the action taken in response to the recommendations made.

Article 32. Every year by 15 February the Ombudsman shall publish on its website a report of his work as National Preventive Mechanism. The report shall be drawn up in accordance with the requirements set forth in Article 28b, para 2 of the Ombudsman Act.

Article 33. (1) Where in the course of his work acting as National Preventive Mechanism the Ombudsman establishes that legislative amendments are required, he may make proposals and recommendations to the National Assembly and the Council of Ministers.

(2) Proposals and recommendations about legislative amendments and the respective action taken shall be included in the annual report of the Ombudsman.

Article 34. The Ombudsman shall cooperate with the national preventive mechanisms of other states, with the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other bodies or institutions of international organisations that work in the area of protection against torture and other forms of cruel, inhuman or degrading treatment or punishment.

STATISTICAL INFORMATION 2020

Planned and ad hock inspections in 2020					
№	Date	Visited institution	Number of individuals under NPM		
			Allowed capacity	Real number of persons	% of denisity
MINSITRY OF JUSTICE					
1.	29.06.2020	Prison- town of Bobov Dol	492	265	53,86
2.	29.06.2020	Detention facility – city of Kyustendil	-	-	-
3.	30.06.2020	Open-type prison hostel – Samoranovo	173	120	69,36
4.	14.07.2020	Prison – city of Stara Zagora	406	399	98,27
5.	15.07.2020	Open-type prison hostel – “Vereya”	-	57	-
6.	16.07.2020	Open-type prison hostel – “Stara Zagora”	132	109	82,57
7.	15.07.2020	Detention facility – city of Stara zagora	56	47	83,92
8.	17.07.2020	Closed-type Prison Hostel – “Cherna gora”	185	78	42,16
9.	01.09.2020	Prison – city of Burgas	371	250	67,38
10.	01.09.2020	Detention facility – city of Burgas	45	38	84,44
11.	02.09.2020	Open-type prison hostel – “Stroitel”	72	53	73,61
12.	03.09.2020	Open-type prison hostel – “Zhitarovo”	72	72	100
13.	04.09.2020	Closed-type Prison Hostel „Debelt“	450	350	77,77
14.	23.09.2020	Prison – city of Plovdiv	405	396	97,77
15.	23.09.2020	Detention facility – city of Plovdiv	180	112	62,22
16.	24.09.2020	Open-type prison hostel – “Hebros”	80	75	93,75
17.	25.09.2020	Open-type prison hostel – “Smolyan”	169	143	84,61
18.	25.09.2020	Detention facility – city of Smolyan	21	6	28,57
TOTAL MINISTRY OF JUSTICE				2570	

Planned and ad hock inspections in 2020					
№	Date	Visited institution	Number of individuals under NPM		
			Allowed capacity	Real number of persons	% of denisity
MINISTRY OF INTERIOR					
19.	13.07.2020	Police District Department – town of Chirpan	13	1	7,69
20.	16.07.2020	2 Police District Department – city of Stara Zagora	12	2	16,66
21.	17.07.2020	1 Police District Department – city of Stara Zagora	5	1	20
22.	02.10.2020	1 Police District Department – city of Pernik	9	-	-
23.	02.10.2020	2 Police District Department – city of Pernik	7	-	-
24.	11.08.2020	Specialised centre for temporary accommodation of foreigners – town of Lyubimets	-	355	-
25.	13.08.2020	Police District Department – city Haskovo	7	-	-
26.	14.08.2020	Police District Department – town of Harmanli	15	-	-
27.	03.09.2020	5 Police District Department – city of Burgas	4	-	-
28.	24.09.2020	1 Police District Department – city of Plovdiv	6	4	66,66
29.	24.09.2020	2 Police District Department – city of Plovdiv	6	3	50
TOATL				366	
STAT AGENCY FOR REFUGEES					
30.	12.08.2020	Regional Reception Centre – town of Harmanli	-	219	-

Planned and ad hock inspections in 2020					
№	Date	Visited institution	Number of individuals under NPM		
			Allowed capacity	Real number of persons	% of denisity
MINISTRY OF LABOR AND SOCIAL POLICY					
31.	07-09.10.2020	Home for Adults with Dementia – village of Batoshevo	40	36	90
32.	07-09.10.2020	Home for Adults with Dementia – village of Gorsko Kosovo	46	46	100
33.	15.09.2020	Home for Adults with Mental Disorders – village of Tzerova Koria	50	49	98
TOTAL				82	
MINISTRY OF HEALTH					
34.	17.01.2020	Social Institution for Persons with Mental Disorders – gara Lakatnik, Svoqe municipality	90	86	95,5
35.	21.01.2020	Social Institution for Persons with Mental Disorders – Podgumer village	80	69	86
36.	14.09.2020	State Psychiatric Hospital – town of Sevlievo	118	80	67,7
37.	15.09.2020	State Psychiatric Hospital – village of Tzerova koria	140	108	77,14
38.	16.09.2020	State Psychiatric Hospital – town of Byala	270	198	73,33
39.	18.01.2021	Homes for Medical and Social Care for Children – city of Pleven	130	61	46,92
40.	22.01.2021	Homes for Medical and Social Care for Children – city of Stara Zagora	200	102	51
TOTAL				541	
MINSITRY OF EDUCATION					
41.	15.01.2021	Correctional Boarding School - town of Rakitovo	160	60	37,50
42.	18.01.2021	Correctional Boarding School - town of Podem	35	10	28,57
TOTAL				70	
GRAND TOTAL				3 848	

Extraordinary Inspections - *ex officio upon specific occasions*

№	Date	Visited institution	Type of inspection – either <i>ex officio</i> or upon specific complaint
1.	22.01.2020	Mental Health Centre – Sofia region	Ex officio
2.	22.01.2020	State Psychiatric Hospital – town of Novi Iskar	Ex officio
3.	13.07.2020	1 Police District Department – Sofia Department of Ministry of Interior	Ex officio
4.	13.07.2020	2 Police District Department – Sofia Department of Ministry of Interior	Ex officio
5.	28.07.2020	Detention facility – Sofia, D.M.Dimitrov blvd.	Ex officio
6.	04.09.2020	2 Police District Department – Sofia Department of Ministry of Interior	Ex officio
7.	14.10.2020	Closed-type Prison Hostel „Kremikovci“	Ex officio